

In the first place, Article 52(2) of Regulation No 1307/2013 permits Member States to set up coupled support schemes for all common and established practices in a Member State in the protein crops sector, which includes legumes grown for their high protein content.

In the second place, Article 52(2) of Regulation No 1307/2013 must be interpreted as meaning that the protein crops sector includes the practice, common in particular in France, of growing mixtures of fodder legumes and grasses in which the former are predominant.

Accordingly, the Commission erred in law in stating, when adopting the contested decision, that the growing of mixtures of fodder legumes and grasses in which the former are predominant cannot be eligible for the voluntary coupled support provided for by Article 52 of Regulation No 1307/2013.

(¹) Regulation (EU) No 1307/2013 of the European Parliament and of the Council of 17 December 2013 establishing rules for direct payments to farmers under support schemes within the framework of the common agricultural policy and repealing Council Regulation (EC) No 637/2008 and Council Regulation (EC) No 73/2009 (OJ 2013 L 347, p. 608).

Action brought on 6 August 2021 — TransnetBW v ACER

(Case T-476/21)

(2021/C 391/31)

Language of the case: English

Parties

Applicant: TransnetBW GmbH (Stuttgart, Germany) (represented by: T. Burmeister, and P. Kistner, lawyers)

Defendant: European Union Agency for the Cooperation of Energy Regulators

Form of order sought

The applicant claims that the Court should:

- annul the decision of the ACER Board of Appeal of 28 May 2021, Case number A-001-2021 (cons.), concerning the appeal against the ACER Decision No. 30/2020 on the Redispatch and Countertrading Cost Sharing Methodology for the Capacity Calculation Region Core (the Contested Decision);
- order ACER to pay TransnetBW GmbH's costs.

Pleas in law and main arguments

In support of the action, the applicant relies on four pleas in law.

1. First plea in law, alleging that scope of the RDCT Cost Sharing Methodology as confirmed by the Contested Decision is unlawful. The RDCT Cost Sharing Methodology as confirmed by the Contested Decision unlawfully extends the application of the polluter pays principle to the sharing of costs for remedial actions exercised on basically all transmission network elements in the Capacity Calculation Region Core, albeit this is by law designed to be an exemption from the general obligation of network owners to maintain and expand their networks according to the market need (owner pays principle).

2. Second plea in law, alleging that the determination of a common loop flow threshold of 10 % in the RDCT Cost Sharing Methodology as confirmed by the Contested Decision is unlawful. ACER had no competence to determine a common loop flow threshold and respectively the ACER Board of Appeal had no competence to confirm the common loop flow threshold. The common loop flow threshold was set at a too low level of 10 % and was based on insufficient and contested data.
3. Third plea in law, alleging that the penalisation of loop flows above threshold is unlawful. The penalization of loop flows above threshold in comparison to internal flows has no legal basis, violates the polluter pays principle, the principle of non-discrimination as well as the principle of proportionality and sets wrong incentives.
4. Fourth plea in law, alleging that the ACER Board of Appeal unlawfully did carry out only a limited review of the complex technical and economic assessments, which were to be made by ACER in the course of the approval procedure of the RDCT Cost Sharing Methodology, which violates the mandatory intensity of review by the ACER Board of Appeal as defined by the Court in its ruling in the Aquind Case (General Court, Decision of 18 November 2020, Case No. T-735/18).

Action brought on 9 August 2021 — British Airways v Commission

(Case T-480/21)

(2021/C 391/32)

Language of the case: English

Parties

Applicant: British Airways plc (Harmondsworth, United Kingdom) (represented by: A. Lyle-Smythe and R. O'Donoghue, lawyers)

Defendant: European Commission

Form of order sought

The applicant claims that the Court should:

- order the Commission to pay forthwith the Default Interest Amount, corresponding to default interest on the amount of EUR 104 040 000 at the ECB refinancing rate plus 3,5 % for the period from 14 February 2011 to 8 February 2016 (less the amount already paid by way of 'guaranteed return') or, alternatively, at such rate as the Court sees fit.
- order the Commission to pay compound interest (or, alternatively, default interest) on the Default Interest Amount (or such other amount as the Court orders the Commission to pay in accordance with subparagraph above) at the rate of the ECB refinancing rate plus 3,5 %, or such other rate as the Court sees fit.
- annul the decision of the Commission refusing to pay the abovementioned sums in its letters dated 30 April and 2 July 2021, and to declare it as void and of no effect *ex tunc*.
- order the Commission to pay the applicant's legal and other expenses.