6. Sixth plea

In determining the price limit, the defendant infringed the principle of proportionality under the first and second sentences of Article 5(4) TEU and Article 3(2)(a) of Regulation (EU) 2017/2195.

(1) Regulation (EU) 2019/942 of the European Parliament and of the Council of 5 June 2019 establishing a European Union Agency for the Cooperation of Energy Regulators (OJ 2019 L 158, p. 22).
(2) Commission Regulation (EU) 2017/2195 of 23 November 2017 establishing a guideline on electricity balancing (OJ 2017 L 312, p. 6).

Action brought on 14 March 2023 — Merlin and Others v Commission

(Case T-141/23)

(2023/C 164/63)

Language of the case: French

Parties

Applicants: Laurent Merlin (Equihen-Plage, France) and the 27 other applicants (represented by: F.-C. Laprévote and F. de Bure, lawyers)

Defendant: European Commission

Form of order sought

The applicants claim that the Court should:

— find, under Article 265 TFEU, that the Commission's failure to decide on the alleged existence of State aid on the basis of the information provided by the applicants constitutes a failure to act;

— order the Commission to take a decision within two months on the basis of Council Regulation (EU) 2015/1589 (1) of 13 July 2015 laying down detailed rules for the application of Article 108 of the Treaty on the Functioning of the European Union;

— order the Commission to pay all the costs.

Pleas in law and main arguments

In support of the action, the applicants rely on a single plea in law. They submit that the Commission unlawfully failed to act in so far as it did not adopt the decision provided for under Article 4 of Regulation 2015/1589 following the preliminary examination of the information provided in the context of the complaints addressed to it by the applicants as regards allegedly unlawful State aid granted by the Netherlands authorities in favour of owners of sea fishing vessels.

(1) Council Regulation (EU) 2015/1589 of 13 July 2015 laying down detailed rules for the application of Article 108 of the Treaty on the Functioning of the European Union (OJ 2015 L 248, p. 9).

Action brought on 15 March 2023 — VF v Council

(Case T-143/23)

(2023/C 164/64)

Language of the case: English

Parties

Applicant: VF (represented by: C. Docclo, lawyer)

Defendant: Council of the European Union

Form of order sought

The applicant claims that the Court should:

— annul the Council Directive (EU) 2022/2523 of 14 December 2022 on ensuring a global minimum level of taxation for multinational enterprise groups and large-scale domestic groups in the Union [1], in so far as

— Article 17 excludes from its scope income from a shipping activity covered by Member States' tonnage tax regime authorized under State aid rules, other than 'international shipping income' and 'qualified ancillary international shipping income';

— Article 17 applies only if 'the constituent entity demonstrates that the strategic or commercial management of all ships concerned is effectively carried on from within the jurisdiction where the constituent entity is located';

— the Directive does not lay down transitional measures for taxpayers that made substantial investments relying on a national tonnage tax regime;

— order the Council of the European Union to pay the costs of this procedure.

Pleas in law and main arguments

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

1. First plea in law, alleging that the Directive infringes the general principle of equal treatment of comparable enterprises.

2. Second plea in law, alleging that the Directive infringes the general principle of proportionality because its effects exceed what is necessary to achieve its purpose.

3. Third plea in law, alleging that the application of the Directive rules to purely domestic situations infringes the principle of proportionality.

4. Fourth plea in law, alleging the infringement of the principle of protection of legitimate expectations and legal certainty.

5. Fifth plea alleging an infringement of Articles 115 and 107 TFEU.

[1] OJ 2022, L 328, p. 1.

Action brought on 17 March 2023 — Eurosemillas v CPVO — Nador Cott Protection and Carpa Dorada (Nadorcott)

(Case T-145/23)

(2023/C 164/65)

Language in which the application was lodged: Spanish

Parties

Applicant: Eurosemillas, SA (Cordoba, Spain) (represented by: J. Muñoz-Delgado y Mérida and M. Esteve Sanz, lawyers)

Defendant: Community Plant Variety Office (CPVO)

Other parties to the proceedings before the Board of Appeal: Nador Cott Protection SARL (Saint-Raphaël, France), Carpa Dorada, SL (Almazora, Spain)

Details of the proceedings before CPVO

Proprietor of the Community plant variety right at issue: Nador Cott Protection SARL, other party to the proceedings before the Board of Appeal