

The applicants claim that the Commission was wrong as a matter of law to assess the question of price-discrimination on a country-wide basis rather than with reference to the local market in which the complainants operated. Moreover, the applicants submit that the Commission was wrong in stating that the licensed private mines could only supply limited amounts of coal and on a short term basis, taking into account the size of the mining facilities and British Coal Corporation's licensing policy. Finally, the applicants claim that the Commission was wrong to conclude that since the ECSC Treaty has expired and that it no longer enjoys exclusive competence with regards to infringements of the latter, a Commission decision was no longer required before judicial protection was sought before national courts.

Action brought on 28 August 2007 — Plant and Others v Commission

(Case T-324/07)

(2007/C 247/62)

Language of the case: English

Parties

Applicants: Gerry Plant (Varteg Pontypool, United Kingdom), Mary Kathleen Plant (Varteg Pontypool, United Kingdom), Dennis Jones (Neath, United Kingdom), William Meyrick (Swansea, United Kingdom), J.G. Evans (Ammanford, United Kingdom), David Vivian Austin (Neath, United Kingdom), D. Powell (Neath, United Kingdom), James Rowland McCann (Neath, United Kingdom), D. B. Diplock (Neath, United Kingdom), John Phillips (Neath, United Kingdom) and Richard Thomas Kingston (Swansea, United Kingdom) (represented by: W. Graham, Solicitor)

Defendant: Commission of the European Communities

Form of order sought

- Annul the Commission's Decision dated 18 June 2007 in Case No. 37037 — SWSMA;
- take such further action as the Court may think just;
- order that the Commission pay the costs of the proceedings.

Pleas in law and main arguments

The pleas in law and main arguments relied on by the applicants are similar to those relied on in Case T-318/07 *National Association of Licensed Opencast Operators v Commission*.

Action brought on 30 August 2007 — Cheminova and Others v Commission

(Case T-326/07)

(2007/C 247/63)

Language of the case: English

Parties

Applicants: Cheminova A/S (Harboøre, Denmark), Cheminova Agro Italia Srl (Rome, Italy), Cheminova Bulgaria EOOD (Sofia, Bulgaria), Agrodan SA (Madrid, Spain) and Lodi SAS (Grand Fougeray, France) (represented by: C. Mereu and K. Van Maldegem, lawyers)

Defendant: Commission of the European Communities

Form of order sought

- Order the annulment of Commission Decision 2007/389/EC;
- order the defendant to pay all costs and expenses in these proceedings.

Pleas in law and main arguments

Council Directive 91/414 concerning the placing of plant protection products on the market ⁽¹⁾ provides that Member States shall not authorise a plant protection product unless its active substances are listed in Annex I and any conditions laid down therein are fulfilled. The applicants seek the annulment of Commission Decision 2007/389/EC of 6 June 2007 concerning the non-inclusion of malathion in Annex I to Council Directive 91/414/EEC and the withdrawal of authorisations for plant protection products containing that substance ⁽²⁾.

In support of their application, the applicants submit that the contested decision is scientifically incomplete and flawed in that it fails to consider all the scientific evidence on malathion submitted to the defendant. According to the applicants, it furthermore violates Articles 4(1), 5(1) of Directive 91/414 and Article 95(3) EC as the defendant refused to peer review the most recent data.