



Reports of Cases

Judgment of the General Court (First Chamber) of 12 April 2013 — Du Pont de Nemours (France) and Others v Commission

(Case T-31/07)

(Plant protection products — Active substance flusilazole — Inclusion of flusilazole in Annex I to Directive 91/414/EEC — Actions for annulment — Partial annulment — Non-severability — Inadmissibility — Non-contractual liability — Limiting the inclusion for a period of 18 months and for four crops — Precautionary principle — Principle of proportionality — Right to be heard — Equal treatment — Statement of reasons — Misuse of powers — Sufficiently serious breach of a rule of law conferring rights on individuals)

1. *Actions for annulment — Subject matter — Partial annulment — Condition — Severability of the contested provisions — Objective criterion — Provisions of a directive laying down conditions for entry of a substance in Annex I of Directive 91/414 — Not severable — Inadmissibility (Art. 230 EC; Council Directive 91/414, Annex I) (see paras 83-88)*
2. *Actions for annulment — Judgment annulling a measure — Effects — Limitation by the Court — Application to a decision modifying the annex to a directive (Art. 231, second para., EC; Council Directive 91/414, Annex I) (see paras 93-97)*
3. *Judicial proceedings — Application initiating proceedings — Formal requirements — Identification of the subject matter of the dispute — Brief summary of the pleas in law on which the application is based — Action for compensation for damage caused by an EU institution — Minimum requirements (Art. 288, second para., EC; Statute of the Court of Justice, Arts 21, first para., and 53, first para.; Rules of Procedure of the General Court, Art. 44(1)(c)) (see paras 111-114)*
4. *Non-contractual liability — Conditions — Unlawfulness — Sufficiently serious breach of EU law — Infringement by the EU legislature in the areas of human health and environment — Requirement for a serious and obvious disregard of the limits of the wide discretion of the legislature in those areas (Arts 152(1) EC, 174(1) and (2) EC and 288, second para., EC) (see paras 121-126, 155-157, 267)*
5. *Agriculture — Approximation of laws — Placing of plant protection products on the market — Directive 91/414 — Procedure for inclusion of the active substances of those products in Annex I to the directive — Subsistence of scientific uncertainties concerning the existence or scope of risks for human health — Application of the precautionary principle — Scope (Arts 152(1) EC and 174(1) and (2) EC; Council Directive 91/414, Art. 5(1), and Annex I) (see paras 131-135, 151-154)*

6. *Public health — Evaluation of risks — Application of the precautionary principle — Scope — Concepts of risk and hazard — Determination of the level of risk judged unacceptable for society — Competence of the EU institution designated by the relevant legislation (Arts 3 EC, 6 EC, 152(1) EC, 174(1) and (2) EC) (see paras 136-150)*
7. *Agriculture — Approximation of laws — Placing of plant protection products on the market — Directive 91/414 — Procedure for inclusion of the active substances of those products in Annex I to the directive — Entry of flusilazole — Limitation of the entry to a duration of 18 months and four crops — No infringement of the principles of proportionality, precaution and sound administration (Council Directive 91/414, Art. 5(1) and (4), and Annex I) (see paras 183, 193-196, 213-220, 224, 231, 239-250, 280-282, 284)*
8. *EU Law — Principles — Rights of defence — Application to any procedure opened against any person and likely to end in a measure adversely affecting him — Principle to be assured even in the absence of legislation governing the procedure in question — Scope (see paras 286, 287, 293, 294)*
9. *EU Law — Principles — Protection of legitimate expectations — Conditions — Specific assurances given by the authorities (see paras 300-302)*
10. *Agriculture — Approximation of laws — Placing of plant protection products on the market — Directive 91/414 — Procedure for inclusion of the active substances of those products in Annex I to the directive — Entry of flusilazole — Other active substances subject to a re-examination having been treated more favourably — No breach of the principle of equal treatment (Council Directive 91/414, Annex I) (see paras 310, 312, 316, 319, 321, 326)*
11. *Acts of the institutions — Statement of reasons — Obligation — Scope — Plea alleging absence or inadequacy of the statement of reasons — Plea alleging incorrectness of the statement of reasons — Distinction (see para. 328)*
12. *Actions for annulment — Pleas in law — Misuse of powers — Concept (Art. 230 EC) (see para. 334)*

Re:

ACTION for (i) annulment of Commission Directive 2006/133/EC of 11 December 2006 amending Council Directive 91/414/EEC to include flusilazole as active substance (OJ 2006 L 349, p. 27) in so far as it includes flusilazole in Annex I to Directive 91/414 in respect of only four crops and for a period of 18 months and (ii) damages.

Operative part

The Court:

1. Dismisses the action;
2. Orders Du Pont de Nemours (France) SAS, Du Pont Portugal — Serviços, Sociedade Unipessoal L^{da}, Du Pont Ibérica, SL, Du Pont de Nemours (Belgium) BVBA, Du Pont de Nemours Italiana Srl, Du Pont De Nemours (Nederland) BV, Du Pont de Nemours (Deutschland) GmbH, DuPont CZ s.r.o., DuPont Magyarország Kereskedelmi kft, DuPont Poland sp. z o.o., DuPont Romania Srl, DuPont (UK) Ltd, Dy-Pont Agkro Ellas AE, DuPont International Operations SARL and DuPont Solutions (France) SAS, to bear their own costs and to pay those of the Commission in respect of the main proceedings and the interlocutory proceedings;
3. Orders the European Crop Protection Association (ECPA) to bear its own costs.