

GENERAL COURT

Judgment of the General Court of 17 May 2018 — Bayer CropScience and Others v Commission

(Cases T-429/13 and T-451/13) ⁽¹⁾

(Plant protection products — Active substances clothianidin, thiamethoxam and imidacloprid — Review of approval — Article 21 of Regulation (EC) No 1107/2009 — Prohibition of the use and sale of seeds treated with plant protection products containing the active substances in question — Article 49(2) of Regulation No 1107/2009 — Precautionary principle — Proportionality — Right to be heard — Non-contractual liability)

(2018/C 231/21)

Language of the case: English

Parties

Applicant in Case T-429/13: Bayer CropScience AG (Monheim am Rhein, Germany) (represented by: K. Nordlander, lawyer, and P. Harrison, Solicitor)

Applicants in Case T-451/13: Syngenta Crop Protection AG (Basel, Switzerland), and the 15 other applicants whose names appear in the annex to the judgment (represented initially by: D. Waelbroek, I. Antypas, lawyers, and D. Slater, Solicitor, and subsequently by D. Waelbroek and I. Antypas)

Defendant in Cases T-429/13 and T-451/13: European Commission (represented by: P. Ondrůšek and G. von Rintelen, acting as Agents)

Interveners in support of the applicants in Cases T-429/13 and T-451/13: Association générale des producteurs de maïs et autres céréales cultivées de la sous-famille des panicoidées (AGPM) (Montardon, France) (represented by: L. Verdier and B. Trouvé, lawyers), The National Farmers' Union (NFU) (Stoneleigh, United Kingdom) (represented by: H. Mercer QC, and N. Winter, Solicitor), Association européenne pour la protection des cultures (ECPA) (Brussels, Belgium) (represented by: D. Abrahams, Barrister, I. de Seze and É. Mullier, lawyers), Rapool-Ring GmbH Qualitätsraps deutscher Züchter (Isernhagen, Germany) (represented initially by: C. Stallberg and U. Reese, and subsequently by U. Reese and J. Szemjonneck, lawyers), European Seed Association (ESA) (Brussels) (represented initially by: P. de Jong, P. Vlaemminck and B. Van Vooren, and subsequently by P. de Jong, K. Claeÿ and E. Bertolotto, lawyers), Agricultural Industries Confederation Ltd (Peterborough, United Kingdom) (represented initially by: P. de Jong, P. Vlaemminck and B. Van Vooren, and subsequently by P. de Jong, K. Claeÿ and E. Bertolotto, lawyers)

Interveners in support of the defendant in Cases T-429/13 and T-451/13: Kingdom of Sweden (represented by: A. Falk, C. Meyer-Seitz, U. Persson, E. Karlsson, L. Swedenborg and C. Hagerman, acting as Agents), Union nationale de l'apiculture française (UNAF), (Paris, France) (represented, in Case T-429/13, by: B. Fau and J.-F. Funke, lawyers, and, in Case T-451/13, by B. Fau), Deutscher Berufs- und Erwerbsimkerbund eV (Soltau, Germany), Österreichischer Erwerbsimkerbund (Großbebersdorf, Austria) (represented by: A. Willand and B. Tschida, lawyers), Pesticide Action Network Europe (PAN Europe) (Brussels), Bee Life European Beekeeping Coordination (Bee Life) (Louvain-la-Neuve, Belgium), Buglife — The Invertebrate Conservation Trust (Peterborough) (represented by: B. Kloostra, lawyer), Stichting Greenpeace Council (Amsterdam, Netherlands) (represented by: B. Kloostra, lawyer)

Re:

Application (i) pursuant to Article 263 TFEU for annulment of Commission Implementing Regulation (EU) No 485/2013 of 24 May 2013 amending Implementing Regulation (EU) No 540/2011, as regards the conditions of approval of the active substances clothianidin, thiamethoxam and imidacloprid, and prohibiting the use and sale of seeds treated with plant protection products containing those active substances (OJ 2013 L 139, p. 12), and (ii) in Case T-451/13, pursuant to Article 268 TFEU for compensation for the damage which the applicants claim to have suffered.

Operative part of the judgment

The Court:

1. Orders that Cases T-429/13 and T-451/13 be joined for the purposes of the judgment closing the proceedings;
2. Dismisses the actions;

3. Orders Bayer CropScience AG, Syngenta Crop Protection AG and the other applicants whose names appear in the annex to bear their own costs, and to pay those incurred by the European Commission, the Union nationale de l'apiculture française (UNAF), Deutscher Berufs- und Erwerbsimkerbund eV and Österreichischer Erwerbsimkerbund;
4. Orders the Kingdom of Sweden to bear its own costs;
5. Orders the Association générale des producteurs de maïs et autres céréales cultivées de la sous-famille des panicoidées (AGPM), The National Farmers' Union (NFU), the Association européenne pour la protection des cultures (ECPA), Rapool-Ring GmbH Qualitätsraps deutscher Züchter, the European Seed Association (ESA), the Agricultural Industries Confederation Ltd, Pesticide Action Network Europe (PAN Europe), Bee Life European Beekeeping Coordination (Bee Life), Buglife — The Invertebrate Conservation Trust and Stichting Greenpeace Council to bear their own costs.

⁽¹⁾ OJ C 325, 9.11.2013.

Judgment of the General Court of 17 May 2018 — BASF Agro and Others v Commission

(Case T-584/13) ⁽¹⁾

(Plant protection products — Active substance fipronil — Review of approval — Article 21 of Regulation (EC) No 1107/2009 — Prohibition of the use and sale of seeds treated with plant protection products containing the active substance in question — Article 49(2) of Regulation No 1107/2009 — Precautionary principle — Impact assessment)

(2018/C 231/22)

Language of the case: English

Parties

Applicants: BASF Agro BV (Arnhem, Netherlands) and the six other applicants whose names appear in the annex to the judgment (represented by: J.-P. Montfort and M. Peristeraki, lawyers)

Defendant: European Commission (represented by: P. Ondrůšek and G. von Rintelen, acting as Agents)

Interveners in support of the applicants: Association européenne pour la protection des cultures (ECPA) (Brussels, Belgium) (represented by: I. de Seze and É. Mullier, lawyers, and D. Abrahams, Barrister), European Seed Association (ESA) (Brussels) (represented initially by: P. de Jong, P. Vlaemminck and B. Van Vooren, and subsequently by P. de Jong, K. Claeýé and E. Bertolotto, lawyers)

Interveners in support of the defendant: Deutscher Berufs- und Erwerbsimkerbund eV (Soltau, Germany), Österreichischer Erwerbsimkerbund (Großebersdorf, Austria), Österreichischer Imkerbund (ÖIB) (Vienna, Austria) (represented by: A. Willand and B. Tschida, lawyers)

Re:

Application pursuant to Article 263 TFEU for annulment of Commission Implementing Regulation (EU) No 781/2013 of 14 August 2013 amending Implementing Regulation (EU) No 540/2011, as regards the conditions of approval of the active substance fipronil, and prohibiting the use and sale of seeds treated with plant protection products containing this active substance (OJ 2013 L 219, p. 22).

Operative part of the judgment

The Court:

1. Annuls Articles 1, 3 and 4 of Commission Implementing Regulation (EU) No 781/2013 of 14 August 2013 amending Implementing Regulation (EU) No 540/2011, as regards the conditions of approval of the active substance fipronil, and prohibiting the use and sale of seeds treated with plant protection products containing this active substance;