

Form of order sought

The applicant claims that the Court should:

- annul the contested decision; and
- reject the application for registration of the figurative mark ‘QUILAPAYÚN’ for goods and services in Class 9 and Class 41 brought before OHIM by the applicants Eduardo Carrasco Pirard, Guillermo García Campos, Luis Hernán Gómez Larenas, Hugo Lagos Vásquez, Ismael Oddo Méndez, Carlos Quezada Salas, Ricardo Venegas Carhart and Sebastián Quezada on 16 September 2010.

Plea in law

Incorrect interpretation of Article 8(1)(b) and 2(c) of Regulation (EC) No 207/2009 read in conjunction with Article 6bis(1) of the Paris Convention.

Action brought on 6 July 2015 — Austria v Commission**(Case T-356/15)**

(2015/C 337/17)

*Language of the case: German***Parties**

Applicant: Republic of Austria (represented by: C. Pesendorfer, Agent, and H. Kristoferitsch, lawyer)

Defendant: European Commission

Form of order sought

The applicant claims that the Court should:

- annul Commission Decision (EU) 2015/658 of 8 October 2014 on the aid measure SA.34947 (2013/C) (ex 2013/N) which the United Kingdom is planning to implement for support to the Hinkley Point C nuclear power station (notified under document C(2014) 7142);
- order the Commission to pay the costs.

Pleas in law and main arguments

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

1. First plea in law: Incorrect application of Article 107(3)(c) TFEU — Erroneous market definition and incorrect assumption of market failures

The applicant asserts that the Commission wrongly authorised the planned State aid pursuant to Article 107(3)(c) TFEU in so far as it wrongly accepts the existence of a separate market for nuclear energy and — also wrongly — assumes that there is a market failure on that market.

2. Second plea in law: Infringement of Article 107(3)(c) TFEU — Incorrect assessment of the nuclear power station as 'new technology'

In that regard, it is claimed that the decision is also void because the Commission wrongly relies on the fact that the technology at issue is new technology.

3. Third plea in law: Incorrect application of Article 107(3)(c) TFEU — Incorrect assumption of the existence of investment aid

In the context of the third plea in law, the applicant asserts that the Commission wrongly assumes that the envisaged measures are mere investment aid; in actual fact, the aid far exceeds mere investment aid and constitutes operating aid, which is unlawful according to the case-law of the Courts of the European Union.

4. Fourth plea in law: Incorrect application of Article 107(3)(c) TFEU — Lack of an objective of common interest

In that regard, the applicant submits that the contested decision is also void in so far as — contrary to the Commission's view — there is no common interest pursuant to Article 107(3)(c) TFEU, which is needed for the authorisation of the aid.

5. Fifth plea in law: Inadequate definition of the aid

The Republic of Austria bases its action on the fact that the Commission defined the aid in a completely inadequate manner.

6. Sixth plea in law: Incorrect application of Article 107(3)(c) TFEU — Inappropriateness of the measures

In the applicant's view, the explanations of the Commission as regards the appropriateness of the aid are inaccurate and incomprehensible, which also makes the decision void.

7. Seventh plea in law: Infringement of the basic requirements of tendering procedures

In the context of this plea in law, the applicant contends that the aid also should not have been authorised because the United Kingdom did not carry out a public procurement procedure and infringed the EU law principles of equal treatment and transparency.

8. Eighth plea in law: Infringement of the Guarantees Notice ⁽¹⁾

In that regard, the applicant complains that the State guarantee authorised as part of the State aid was not examined on the basis of the criteria of the Guarantees Notice.

9. Ninth plea in law: Failure to comply with the obligation to state reasons pursuant to the second paragraph of Article 296 TFEU

In addition, the Commission infringed its obligation to state reasons in many ways and in a very serious manner.

10. Tenth plea in law: Infringement of the right to be heard

Lastly, the applicant also alleges an infringement of the right to be heard.

⁽¹⁾ Commission Notice on the application of Articles 87 [EC] and 88 [EC] to State aid in the form of guarantees (OJ 2008 C 155, p. 10).