Defendant: European Commission

Form of order sought

The applicants claim that the General Court should:

— annul the Decision of the European Commission — Directorate-General Environment — of 24 June 2013 and of the European Commission — Secretariat-General — of 3 September 2013 by which access to the letter of formal notice of the Commission opening infringement procedure No 2013/4000 against the Federal Republic of Germany of 30 May 2013 was refused;

— order the defendant to bear its own costs and to pay the applicants' costs.

Pleas in law and main arguments

In support of the action, the applicants rely on four pleas in law.

1. First plea in law, alleging infringement of the applicants' right to access information

   The applicants maintain, in the first place, that the contested Commission decision infringes their right to information conferred by Article 15(3) TFEU, Article 42 of the Charter of Fundamental Rights, Article 10(1) of the European Convention for the Protection of Human Rights and Fundamental Freedoms and Article 2(1) of Regulation (EC) No 1049/2001. ([1]) The applicants submit that the provisions referred to were designed to create maximum transparency and that exceptions must be narrowly construed. In addition, according to case-law, stringent requirements must be set as regards the proof of serious interference with the investigation. The contested decision does not fulfil that requirement.

2. Second plea in law, alleging an error of law in the examination of partial access

   The applicants further claim that the examination carried out by the Commission, refusing a merely partial access to information, is vitiated by an error of law. The considerations mentioned to that effect in the decision are, they submit, incorrect and infringe the principle of proportionality.

3. Third plea in law, alleging infringement of the obligation to state reasons

   In addition, the applicants submit, the contested decision does not satisfy the requirements to be set in respect of the obligation to state reasons.

4. Fourth plea in law, alleging infringement of the second sentence of Article 10(1) of the European Convention for the Protection of Human Rights and Fundamental Freedoms

   The applicants also allege infringement of their right, arising from the second sentence of Article 10(1) of the European Convention for the Protection of Human Rights and Fundamental Freedoms, to receive information without interference by public authority.

([1]) Regulation (EC) No 1049/2001 of the European Parliament and of the Council of 30 May 2001 regarding public access to European Parliament, Council and Commission documents (OJ 2001 L 145, p. 43).

Action brought on 2 October 2013 — Netherlands v Commission

(Case T-542/13)

(2013/C 344/123)

Language of the case: Dutch

Parties

Applicant: Kingdom of the Netherlands (represented by: J. Langer and M. Bulterman, acting as Agents)

Defendant: European Commission

Form of order sought

The applicant claims that the General Court should:

— annul Commission Decision C(2013) 4474 final of 18 July 2013 on the non-application of certain provisions of the Decree of the Kingdom of the Netherlands of 8 June 2012 establishing detailed rules with regard to the liberalisation of international rail passenger transport;

— order the Commission to pay the costs of the proceedings.

Pleas in law and main arguments

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

1. First plea in law, alleging that the Commission wrongly based the contested decision on Article 61 of Directive 2012/34/EU. ([1]) The applicant argues that, if the Commission is not in agreement with the manner in which the Netherlands legislature implements the Directive, it may make use of Article 258 TFEU.

2. Second plea in law, alleging an infringement of the principle of the rights of the defence, the principle of legitimate expectations and the principle of loyal cooperation, following expiry of the 'EU Pilot', ([2]) in declaring Netherlands legislation inapplicable by virtue of Article 61 of Directive 2012/34/EU. The applicant argues that it was reasonably entitled to assume, when answering the Commission's questions under 'EU Pilot', that the shared information would be used by the Commission exclusively in (the event of) infringement proceedings.

3. Third plea in law, alleging defective grounds and an incorrect interpretation of Directive 2012/34/EU in that it was held that the criteria for determining 'the principal purpose of the service', within the meaning of Article 10(3) of the Directive, may not be determined in advance, and in that it was held that it is for the regulatory body to set out the criteria for determining 'economic equilibrium' within the meaning of Article 11(2).

(1) Directive 2012/34/EU of the European Parliament and of the Council of 21 November 2012 establishing a single European railway area (OJ 2012 L 343, p. 32).

(2) See the communication of the Commission 'A Europe of Results — Applying Community Law' (COM(2007) 502 final).

Action brought on 7 October 2013 — Dyson v Commission

(Case T-544/13)

(2013/C 344/124)

Language of the case: English

Parties

Applicant: Dyson Ltd (Malmesbury, United Kingdom) (represented by: E. Batchelor, Solicitor, and F. Carlin, Barrister)

Defendant: European Commission

Form of order sought

The applicant claims that the Court should:

— Annul Commission Delegated Regulation (EU) No 665/2013 of 3 May 2013 supplementing Directive 2010/30/EU of the European Parliament and of the Council with regard to energy labelling of vacuum cleaners, (OJ 2013 L 192, p. 1) in its entirety, or in any event those provisions relating to cleaning performance and energy efficiency; and

— Order the defendant to pay its own costs and the applicant's costs in relation with these proceedings.

Pleas in law and main arguments

In support of the action, the applicant submits that the contested regulation is unlawful and relies in that respect on three pleas in law.

1. First plea in law, alleging that the Commission exceeded its competence under Article 10(1) of the enabling legislation, Directive 2010/30/EU (1), when it adopted this delegated act, as:

— Article 10(1) requires that the Commission delegated act accurately inform EU consumers of energy consumption during use. The contested regulation misleads consumers as to the vacuum cleaner's energy efficiency because cleaning performance is tested only when the vacuum cleaner has an empty receptacle and so not 'during use';

— Article 10(1) requires that the Commission delegated act accurately inform EU consumers of essential resources consumed by an appliance during use, namely the dust bags and filters consumables. The delegated act provides no such information to consumers.

2. Second plea in law, alleging that the Commission violated its duty to state reasons under Article 296 Treaty on the Functioning of the European Union ('TFEU') because the contested regulation does not explain why there is insufficient 'technological progress' to permit testing of energy consumption/cleaning performance in a dust-loaded state. Nor does it explain why the Commission postponed dust-loading for consideration only in five years' time.

3. Third plea in law, alleging that the Commission violated the fundamental principle of equality by adopting a contested regulation which discriminates in favour of bagged vacuum cleaners to the disadvantage of bagless vacuum cleaners and/or vacuum cleaners based on cyclonic technology. Loss of suction due to clogging — a feature particularly of bagged vacuum cleaners — cannot be detected by pristine state testing. The relative merits of bagless and cyclonic technology vacuum cleaners cannot be readily identified by consumers.

(1) Directive 2010/30/EU of the European Parliament and of the Council of 19 May 2010 on the indication by labelling and standard product information of the consumption of energy and other resources by energy-related products (OJ 2010 L 153, p. 1)

Order of the General Court of 2 October 2013 — RiskMetrics Solutions v OHIM — (RISKMANAGER)

(Case T-557/12) (1)

(2013/C 344/125)

Language of the case: English

The President of the Fourth Chamber has ordered that the case be removed from the register.

(1) OJ C 370, 17.12.2011.