

Other parties to the proceedings: European Commission, Gérard Buono, Jean-Luc Buono, Roger Del Ponte, Serge Antoine Di Rocco, Jean Gérald Lubrano, Jean Lubrano, Jean Lucien Lubrano, Fabrice Marin, Robert Marin

Form of order sought

- Uphold the claims and pleas in law of the appellants in their appeal;
- Set aside the judgment of the General Court (Fifth Chamber) of 7 November 2012 in Case T-574/08 in so far as it rejects the appellants' application;
- Set aside the judgment of the General Court (Fifth Chamber) of 7 November 2012 in Case T-574/08 on the issue of costs;
- Declare admissible and allow the application by the Syndicat des Thoniers de la Méditerranée (STM), including the application for damages;
- Uphold the applications by the applicants before the General Court who have appealed to the Court of Justice;
- Uphold the applications by the applicants before the General Court with regard to the principle of compensatory damages;
- Uphold the applications of the applicants before the General Court with regard to the amount of compensation applied for in the initial application as subsequently corrected in accordance with the establishment of the elements of the loss of use calculation and the evidence;
- Should the previous point be rejected, appoint an expert under the responsibility of the European Commission to calculate the compensation due on the basis of a calculation method to be adopted by the Court;
- Order the Commission to pay all the costs and to reimburse all the charges relating to lawyers' costs, legal proceedings, transport and travel incurred by the STM and the individual appellants.

Pleas in law and main arguments

The appellants rely on four pleas in law in support of their appeal.

First, the Syndicat des thoniers méditerranéens considers that the General Court distorted the facts contained in the case-file in order to deny it any interest in bringing an action and, consequently, in order to hold that its action was inadmissible.

Second, the appellants consider that the General Court erred in law by interpreting the judgment of 17 March 2011 in Case C-221/09 *AJD Tuna* in such a way as to make it possible to regard Regulation (EC) No 530/2008 ⁽¹⁾ as an unlawful act. According to the appellants, that Regulation remains lawful, but is partially invalid.

Third, the appellants complain that the General Court failed to acknowledge the Commission's liability for a lawful act, on the basis that the harm relied on would not exceed the limits of the economic risk inherent in fishing.

Finally, the appellants complain that the General Court ruled in disregard of rules of law with which it was bound to comply by not ruling on the pleas in law or arguments brought before it by the parties to the dispute. In particular, the appellants complain that the General Court did not rule on the pleas in law or arguments concerning the different treatment of the Spanish seiners and the appellants under Regulation (EC) No 530/2008.

⁽¹⁾ Commission Regulation (EC) No 530/2008 of 12 June 2008 establishing emergency measures as regards purse seiners fishing for bluefin tuna in the Atlantic Ocean, east of longitude 45 °W, and in the Mediterranean Sea (OJ 2008 L 155, p. 9).

Appeal brought on 22 January 2013 by Hungary against the judgment delivered on 18 November 2012 in Case T-194/10 Hungary v Commission

(Case C-31/13 P)

(2013/C 71/20)

Language of the case: Hungarian

Parties

Appellant: Hungary (represented by: M.Z. Fehér and K. Szijjártó, agents)

Other party to the proceedings: European Commission, Slovak Republic

Form of order sought

- Annulment of the judgment of the General Court under appeal.
- The Court of Justice to give final judgment in the matter, as permitted by Article 61 of its Statute.

— An order that the Commission bear the costs.

Pleas in law and main arguments

In its appeal, the Hungarian Government alleges first that the General Court, in the judgment under appeal, misapplied the law of the European Union by declaring that the disputed entry in the E-Bacchus database had no legal effects so that the action brought in that regard was inadmissible. Moreover, the Hungarian Government also considers that the grounds stated for the judgment of the General Court are insufficient, in so far as in several instances it failed entirely to consider the allegations on the basis of which the Hungarian Government questioned the position of the Commission and confined itself to confirming that position without ruling on the merits of those allegations. Secondly, the Hungarian Government essentially repeats the argument on the merits put forward in the proceedings before the General Court in support of its claim that the Court of Justice, if the appeal is declared admissible, should give final judgment in the matter, as permitted by Article 61 of its Statute.

Through the creation of the E-Bacchus database, the legislature of the European Union established an industrial property register of protected designations of origin and geographical indications in the European Union which certifies the existence of such protection at Union level. As it is a single register, it cannot be accepted that only the entry of new names has legal effects: the same legal effects must attach to any entry in that database.

The General Court is mistaken in its assessment that, in the case of existing names, entry in the E-Bacchus database is merely an automatic (formal) transition from one regulatory system to another. According to the Hungarian Government, such entry is a substantive transformation which raises the protection of names, which previously happened at national level, to European Union level.

It is unacceptable, and breaches the principle of equality, if old and new names are assessed differently as regards the legal effects of entry in the E-Bacchus register. The legal effects derived from the entry must be the same whatever the name, even if a different procedure is followed for entry according to whether it is an old name or a new one.

The legal effects of entry also necessarily give rise to a certain monitoring obligation for the Commission at the point of developing and amending the content of the E-Bacchus database. In particular, the principle of sound administration means that the Commission should have ascertained what the legal situation was in Slovakia on the reference date (1 August 2009) and whether the original entry was in fact incorrect.

The General Court has also failed to fulfil its obligation to state reasons, in that when it assessed the merits of the case it failed to consider the Hungarian allegations questioning the position of the Commission but merely confirmed that position without ruling on the merits of those allegations.

In the view of the Hungarian Government, in amending the entry the Commission breached the relevant provisions of Council Regulation (EC) No 1234/2007 ⁽¹⁾ and Commission Regulation (EC) No 607/2009 ⁽²⁾ having regard to the fact that, through the contested amendment of the original entry in the E-Bacchus register, it guaranteed the automatic protection under the new legislation of a name which could not be considered to be an 'existing protected wine name' pursuant to Article 118s of Regulation No 1234/2007. The Hungarian Government states that the name 'Tokajská vinohradnícka oblasť', contained in Slovak Law 313/2009, adopted on 30 June 2009 and published in the Slovak official journal on 30 July 2009, is the one that must be considered to be an existing protected name.

Similarly, the Hungarian Government alleges that in its management of the E-Bacchus database, especially by making the entry contested in the present case, the Commission breached the fundamental principles of sound administration, cooperation in good faith and legal certainty, recognised by European Union Law.

⁽¹⁾ Council Regulation (EC) No 1234/2007 of 22 October 2007 establishing a common organisation of agricultural markets and on specific provisions for certain agricultural products (Single CMO Regulation) (OJ 2007 L 299, p. 1).

⁽²⁾ Commission regulation (EC) No 607/2009 of 14 July 2009 laying down certain detailed rules for the implementation of Council Regulation (EC) No 479/2008 as regards protected designations of origin and geographical indications, traditional terms, labelling and presentation of certain wine sector products (OJ 2009 L 193, p. 60).