

Action brought on 2 September 2014 — Micula a.o. v Commission**(Case T-646/14)**

(2014/C 439/40)

Language of the case: English

Parties

Applicants: Ioan Micula (Oradea, Romania); S.C. European Food SA (Drăgănești Romania); S.C. Starmill Srl (Drăgănești); S.C. Multipack Srl (Drăgănești); Viorel Micula (Oradea) (represented by: K. Hobér, J. Ragnwaldh, T. Pettersson, E. Gaillard and Y. Banifatemi, lawyers)

Defendant: European Commission

Form of order sought

The applicants claim that the Court should:

- annul the decision C(2014) 3192 final of 26 May 2014 issued in Case State aid SA.38517 (2014/NN) — Micula v Romania (ICSID arbitration award) ordering Romania to suspend any action which may lead to the execution or implementation of the award of 11 December 2013 rendered by an Arbitral Tribunal established under the auspices of the International Centre for Settlement of Investment Disputes in the case Ioan Micula, Viorel Micula and others v. Romania (ICSID Case No. ARB/05/20), as the Commission considers that the execution of the award constitutes unlawful State aid, until the Commission has taken a final decision on the compatibility of that State aid with the internal market;
- award the applicants the costs of the action.

Pleas in law and main arguments

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

1. First plea in law, alleging a lack of competence.
 - EU law is not applicable to the case and the Commission lacks the competence to issue a decision under Article 11(1) of Regulation n° 659/1999. The Commission's decision fails to acknowledge that Romania is obligated by international law to execute the ICSID award without delay and that Romania's international law obligations take primacy over EU law. The Commission's decision infringes Article 351(1) TFEU and Article 4(3) TEU, which recognise and protect Romania's obligations under the ICSID Convention and under the Sweden-Romania Bilateral Investment Treaty.
2. Second plea in law, alleging a manifest error of law and assessment.
 - The Commission erred in law by wrongly categorising the execution of the ICSID award as a new State aid measure and violated the applicants' legitimate expectations. The Commission's entire decision is based on the incorrect assumption that the execution of the ICSID award constitutes State aid under EU law. The ICSID award neither gives an economic advantage to the applicants, nor does it constitute a selective measure, nor a voluntary measure that is imputable to Romania, nor does it distort or threaten to distort competition.