

(Plant protection products – Active substance glyphosate – Application for renewal of an active substance – Extension of approval period – Delay in the renewal procedure – Reasons beyond the control of the applicant – Request for internal review – Article 10(1) of Regulation (EC) No 1367/2006 – Decision to reject the request – Article 17 of Regulation (EC) No 1107/2009)

In Case T-565/23,

Aurelia Stiftung, established in Berlin (Germany), represented by A. Willand and A. Mostler, lawyers,

applicant,

v

European Commission, represented by A. Becker, D. Milanowska and M. ter Haar, acting as Agents,

defendant,

supported by

Bayer Agriculture, established in Antwerp (Belgium), represented by H. Posser, F. Geber and T. Römhild, lawyers,

intervener,

THE GENERAL COURT (Fourth Chamber, Extended Composition)

composed, at the time of the deliberations, of R. da Silva Passos, President, N. Pótorak, I. Reine, T. Pynnä (Rapporteur) and H. Cassagnabère, Judges.

Registrar: P. Cullen, Administrator,

having regard to the written part of the procedure,

further to the hearing on 13 February 2025,

gives the following

Judgment

1 By its action under Article 263 TFEU, the applicant, Aurelia Stiftung, seeks annulment of Commission Decision Ares(2023) 4611321 of 3 July 2023 rejecting its request for internal review concerning Commission Implementing Regulation (EU) 2022/2364 of 2 December 2022 amending Implementing Regulation (EU) No 540/2011 as regards the extension of the approval period of the active substance glyphosate (OJ 2022 L 312, p. 99) (‘the contested decision’).

Background to the dispute and events subsequent to the bringing of the action

2 The applicant is a not-for-profit association established in Berlin (Germany). Its objectives include, in particular, the protection of animals, nature and the environment.

3 Glyphosate is an active substance that is widely used in herbicides.

4 Glyphosate was first approved by Commission Directive 2001/99/EC of 20 November 2001 amending Annex I to Council Directive 91/414/EEC concerning the placing of plant protection products on the market to include glyphosate and thifensulfuron-methyl as active substances (OJ 2001 L 304, p. 14). In accordance with Annex I to Council Directive 91/414/EEC of 15 July 1991 concerning the placing of plant protection products on the market (OJ 1991 L 230, p. 1), the approval of glyphosate entered into force on 1 July 2002 and was to expire on 30 June 2012.

5 In 2009, Regulation (EC) No 1107/2009 of the European Parliament and of the Council of 21 October 2009 concerning the placing of plant protection products on the market and repealing Council Directives 79/117/EEC and 91/414 (OJ 2009 L 309, p. 1) entered into force. Commission Implementing Regulation (EU) No 540/2011 of 25 May 2011 implementing Regulation No 1107/2009 as regards the list of approved active substances (OJ 2011 L 153, p. 1) adopted the list provided for in Article 78(3) of Regulation No 1107/2009. Glyphosate was included on that list, with an expiry date for the approval period of 31 December 2015.

6 On 20 October 2015, Commission Implementing Regulation (EU) 2015/1885 amending Implementing Regulation No 540/2011 as regards the extension of the approval periods of the active substances 2,4-D, acibenzolar-s-methyl, amitrole, bentazone, cyhalofop butyl, diquat, esfenvalerate, famoxadone, flumioxazine, DPX KE 459 (fluprussulfuron-methyl), glyphosate, iprovalicarb, isoproturon, lambda-cyhalothrin, metalaxyl-M, metsulfuron methyl, picolinafen, prosulfuron, pymetrozine, pyraflufen-ethyl, thiabendazole, thifensulfuron-methyl and triasulfuron (OJ 2015 L 276, p. 48), which was adopted on the basis of the first paragraph of Article 17 of Regulation No 1107/2009, extended the approval period of glyphosate until 30 June 2016 on the ground that the assessment of the substance had been delayed for reasons beyond the control of the applicant.

7 On 29 June 2016, Commission Implementing Regulation (EU) 2016/1056 amending Implementing Regulation No 540/2011 as regards the extension of the approval period of the active substance glyphosate (OJ 2016 L 173, p. 52) extended, for a second time, the approval period of glyphosate on the basis of the first paragraph of Article 17 of Regulation No 1107/2009, stating that the approval would expire ‘[six] months from the date of receipt of the opinion of the Committee for Risk Assessment of the European Chemicals Agency by the Commission or 31 December 2017, whichever is the earlier’.

8 On 12 December 2017, the approval of glyphosate was renewed until 15 December 2022 by Commission Implementing Regulation (EU) 2017/2324 renewing the approval of the active substance glyphosate in accordance with Regulation No 1107/2009 and amending the Annex to Implementing Regulation No 540/2011 (OJ 2017 L 333, p. 10).

9 On 14 March 2022, the European Food Safety Authority (EFSA) requested that the applicant for renewal of the approval of glyphosate provide additional information, which it submitted in due time.

10 On 10 May 2022, EFSA and the European Chemicals Agency (ECHA) informed the European Commission that the adoption of the conclusion on the peer review of the risk assessment of glyphosate had been delayed.

11 On 2 December 2022, the approval of glyphosate was extended, until 15 December 2023, by Implementing Regulation 2022/2364.

12 On 30 January 2023, the applicant submitted a request for internal review of Implementing Regulation 2022/2364 on the basis of Article 10 of Regulation (EC) No 1367/2006 of the European Parliament and of the Council of 6 September 2006 on the application of the provisions of the Aarhus Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters to Union institutions and bodies (OJ 2006 L 264, p. 13).

13 On 3 July 2023, the Commission, by the contested decision, rejected the request for internal review.

14 On 28 November 2023, the approval of glyphosate was renewed until 15 December 2033 by Commission Implementing Regulation (EU) 2023/2660 renewing the approval of the active substance glyphosate in accordance with Regulation No 1107/2009 and amending Implementing Regulation No 540/2011 (OJ L, 2023/2660).

15 On 24 January 2024, the applicant submitted a request for internal review of Implementing Regulation 2023/2660.

Forms of order sought

16 The applicant claims that the Court should:

- annul the contested decision;
- order the Commission to pay the costs.

17 The Commission, supported by Bayer Agriculture, contends that the Court should:

- dismiss the action;
- order the Commission to pay the costs.

Law

18 The applicant relies on five pleas in law in support of its action, alleging, in essence, first, infringement of Article 17 of Regulation No 1107/2009 in that the extension of the approval period serves to complete a stage of the procedure whose time limit cannot be extended; second, misapplication and misinterpretation of Article 17 of Regulation No 1107/2009 as regards the role of the applicant for renewal; third and fourth, infringement of the precautionary principle and an incorrect balancing of the interests at issue in the context of risk management; and, fifth, infringement of the obligation to state reasons.

Continuing legal interest in bringing proceedings

19 Bayer Agriculture submits that the applicant’s interest in bringing proceedings has ceased to exist since the adoption of Implementing Regulation 2023/2660, which renewed the approval of glyphosate, against which the applicant has submitted a request for internal review based on similar arguments.

20 The Court observes that an applicant’s interest in bringing proceedings must be vested and current. That interest must, in the light of the purpose of the action, exist at the stage of lodging the action, failing which the action will be inadmissible, and continue until the final decision, failing which there will be no need to adjudicate (see judgment of 17 September 2015, *Mory and Others v Commission*, C-33/14 P, EU:C:2015:609, paragraphs 56 and 57 and the case-law cited).

21 In the present case, as Bayer Agriculture states, the extension of the approval of glyphosate ended on 15 December 2023 and the approval of that active substance was renewed by Implementing Regulation 2023/2660.

22 However, first, the contested decision has not been withdrawn by the Commission, so that the dispute has retained its purpose (see, to that effect, judgment of 4 September 2018, *ClientEarth v Commission*, C-57/16 P, EU:C:2018:660, paragraph 45 and the case-law cited). As the applicant observes, the contested decision and the request for internal review of Implementing Regulation 2023/2660 have different subject matters.

23 Second, it is apparent from the case-law that an applicant may retain an interest in claiming the annulment of an act of an EU institution to prevent its alleged unlawfulness recurring in the future. That interest in bringing proceedings follows from the first paragraph of Article 266 TFEU, under which the institution whose act has been declared void is to be required to take the necessary measures to comply with the judgment of the Court. However, that interest in bringing proceedings can exist only if the alleged unlawfulness is liable to recur in the future independently of the circumstances of the case which gave rise to the action brought by the applicant (judgments of 7 June 2007, *Wunenburger v Commission*, C-362/05 P, EU:C:2007:322, paragraphs 50 to 52, and of 27 September 2018, *Mellifera v Commission*, T-12/17, EU:T:2018:616, paragraph 28).

24 That is the situation in the present case since the unlawfulness alleged by the applicant is based, inter alia, on an interpretation of Article 17 of Regulation No 1107/2009 which the Commission is likely to repeat where there is another request for internal review concerning the extension of the approval period of an active substance.

25 It follows that, notwithstanding the adoption of Implementing Regulation 2023/2660, in respect of which the applicant has also submitted a request for review, the applicant retains a legal interest in bringing proceedings in the present case.

Admissibility of the action

26 Bayer Agriculture disputes the applicant’s standing to bring proceedings. First, the applicant is not entitled to submit a request for internal review under Article 10 of Regulation No 1367/2006 since its stated primary objective is not to promote protection of the environment. It is active in the apiculture and horticulture sectors and those activities do not serve to protect the environment. Second, the promotion of beekeeping concerns animals which do not live in the wild and do not fall within the scope of environmental protection in the framework of environmental law. Accordingly, the action should be dismissed as inadmissible.

27 The Court observes that Article 10 of Regulation No 1367/2006 provides that ‘any non-governmental organisation ... that meet[s] the criteria set out in Article 11 shall be entitled to make a request for internal review to the Union institution or body that adopted the administrative act ... on the grounds that such an act ... contravenes environmental law within the meaning of point (f) of Article 2(1).’

28 Article 11(1)(b) of Regulation No 1367/2006 provides that a non-governmental organisation is entitled to make a request for internal review provided that it has the primary stated objective of promoting environmental protection in the context of environmental law.

29 Article 2 of Regulation No 1367/2006, entitled ‘Definitions’, provides, in point 1(f) thereof, that environmental law means ‘Union legislation which, irrespective of its legal basis, contributes to the pursuit of the objectives of Union policy on the environment ...’.

30 Point 1(f) of Article 2 of Regulation No 1367/2006 states that the question whether an act was adopted under environmental law does not depend on the legal basis on which it was adopted. The concept of ‘environmental law’, for the purposes of that regulation, covers any EU legislation which contributes to the pursuit of the objectives of EU policy on the environment. It follows from the wording of that article that, by referring, in essence, to the objectives listed in Article 191(1) TFEU, the EU legislature intended to give to the concept of ‘environmental law’, covered by Regulation No 1367/2006, a broad meaning, not limited to matters relating to the protection of the natural environment in the strict sense. That finding is indeed confirmed by Article 192(2) TFEU, according to which environmental law, in so far as it is the subject of Title XX of that Treaty, may also include provisions that are primarily of a fiscal nature, measures that affect town and country planning, quantitative management of water resources (or affecting directly or indirectly the availability of those resources) and land use, and also measures significantly affecting a Member State’s choice between different energy sources and the general structure of its energy supply. The effect of a restricted interpretation of the concept of ‘environmental law’ would be that such provisions and measures would, to a great extent, fall outside its scope (judgment of 14 March 2018, *TestBioTech v Commission*, T-33/16, EU:T:2018:135, paragraphs 42 to 45).

31 In that context, the Court has already implicitly accepted that a non-profit association that works for the conservation and promotion of bees was entitled to submit a request for internal review against an extension of the approval period of an active substance (see, to that effect, judgment of 27 September 2018, *Mellifera v Commission*, T-12/17, EU:T:2018:616).

32 In the present case, it is apparent from Article 2(2) and (3) of the applicant’s articles of association that its objective is to promote, inter alia, the protection of nature and the preservation of the countryside, protection of the environment, animal breeding and the cultivation of plants. Those objectives are to be achieved in particular by various actions concerning the protection of bees.

33 In the light of the broad meaning of the concept of ‘environmental law’ in the context of Regulation No 1367/2006 (see the case-law cited in paragraph 30 above) which, contrary to Bayer Agriculture’s submissions, is not restricted to issues pertaining to the protection of the natural environment in the strict sense, it must be held that the applicant satisfies the condition in Article 11(1)(b) of Regulation No 1367/2006, namely that it should be an association whose primary stated objective is promoting environmental protection in the context of environmental law, which the Commission does not dispute.

34 The arguments made by Bayer Agriculture concerning the admissibility of the action must therefore be rejected.

The second plea in law: misapplication and misinterpretation of Article 17 of Regulation No 1107/2009 as regards the role of the applicant for renewal

Admissibility of the second plea

35 While not explicitly claiming that the second plea is inadmissible, the Commission expresses doubts as to whether the alleged infringements of Article 17 of Regulation No 1107/2009 entail an infringement of environmental law within the meaning of point 1(f) of Article 2 of Regulation No 1367/2006, as required by Article 10 of that regulation.

36 The Court considers that, given the broad interpretation of the concept of ‘environmental law’ in the context of Regulation No 1367/2006 (see paragraph 30 above), Article 17 of Regulation No 1107/2009, which, by the second plea in particular, is alleged to have been infringed, is a provision which contributes to the pursuit of EU environmental policy for the purposes of Article 10 of Regulation No 1367/2006. Indeed, that provision allows the approval period for active substances to be extended in order to enable completion of the renewal procedure, which must take into account, inter alia, the risks which the substance concerned poses to the environment.

37 Consequently, the applicant’s second plea is admissible.

Substance

38 The applicant submits, in essence, that the Commission erred in law when it found in the contested decision that the condition under Article 17 of Regulation No 1107/2009, that the reasons for the delay must be ‘beyond the control’ of the applicant for renewal, was satisfied. Delays during the renewal of the approval of glyphosate resulted from the need to request documents and information from the renewal applicant and then to assess them. The applicant highlights data gaps in the information provided by the applicant for renewal and the incompleteness of the application for renewal and of the supplementary dossier, as apparent from the large amount of additional information requested by EFSA from the applicant for renewal. The reasons for the delays should be examined concretely.

39 The Court observes that the first paragraph of Article 17 of Regulation No 1107/2009 states that an extension decision is to be adopted ‘where for reasons beyond the control of the applicant it appears that the approval is likely to expire before a decision has been taken on renewal’.

40 At the outset, it should be observed that there are differences in the various language versions of the first paragraph of Article 17 of Regulation No 1107/2009. Although some versions, including that in French, employ the expression ‘reasons independent of the intent of the applicant’ (in French: ‘raisons indépendantes de la volonté du demandeur’), the concept of ‘intent’ (in French: ‘volonté’) is not found in other language versions. A number of other language versions, including English, use the concept of ‘control’. Others, such as German, use the concept of ‘liability’ or even that of influence. Other versions merely refer to reasons ‘independent of the applicant for renewal’.

41 According to the Court’s settled case-law, the wording used in one language version of a provision of EU law cannot serve as the sole basis for the interpretation of that provision or be made to override the other language versions. Provisions of EU law must be interpreted and applied uniformly in the light of the versions existing in all languages of the European Union. Where there is divergence between the various language versions of an EU legislative text, the provision in question must be interpreted by reference to the general scheme and the purpose of the rules of which it forms part (see judgment of 12 September 2019, *A and Others*, C-347/17, EU:C:2019:720, paragraph 38 and the case-law cited).

42 Accordingly, the first paragraph of Article 17 of Regulation No 1107/2009 and, more specifically, the expression ‘reasons beyond the control of the applicant’ must be interpreted in the light of both the purpose of that provision and the context of which it is part.

43 As regards the context of that rule, first, it should be borne in mind that it forms part of the section of Regulation 1107/2009 relating to the approval of active substances. Those approvals, as well as their renewal, are the subject of several provisions governing the conduct of the applicable procedure.

44 An approval may be granted only for a period not exceeding 10 years (Article 5 of Regulation No 1107/2009). As explained in recital 15 of that regulation, it is in the interest of safety that the approval period for active substances be limited in time and that it should be proportionate to the possible risks inherent in the use of the substances. A renewal is valid for a period not exceeding 15 years (Article 14(2) of Regulation No 1107/2009).

45 It follows that the legislature took steps to provide for limited approval or renewal periods in order to avoid maintaining active substances on the market which could prove to present unacceptable risks for the purposes of Article 4 of Regulation No 1107/2009. Achieving that objective, in the light of the precautionary principle, requires that the re-assessment of substances take place periodically, as the Commission rightly observes when it explains the cyclical approach of Regulation No 1107/2009.

46 Second, it is necessary to examine the role of the applicant for renewal in the framework of Article 17 of Regulation No 1107/2009.

47 Both the approval procedure and the renewal procedure are launched on the initiative of the producer of the active substance, which is then, potentially, an applicant for renewal, as is apparent respectively from Article 7 of Regulation No 1107/2009 and Article 1 of Commission Implementing Regulation (EU) No 844/2012 of 18 September 2012 setting out the provisions necessary for the implementation of the renewal procedure for active substances, as provided for in Regulation No 1107/2009 (OJ 2012 L 252, p. 26). The producer of the active substance, which is then, potentially, an applicant for renewal, is a central actor throughout the approval and renewal procedures and is a main interlocutor for the bodies involved in those procedures.

48 As regards more specifically the renewal procedure, the applicant for renewal is responsible for the contents of the application (Article 3 of Implementing Regulation No 844/2012), for the submission of supplementary dossiers (Articles 6 and 7 of Implementing Regulation No 844/2012) and for providing additional information to the rapporteur Member State or EFSA (Article 11(5) and Article 13(3) of Implementing Regulation No 844/2012), and it may submit comments to EFSA on the rapporteur Member State’s draft assessment report or the renewal report (Article 12(3) and Article 14(1) of Implementing Regulation No 844/2012. All those interactions with the applicant for renewal are subject to specific deadlines.

49 It follows that the applicant for renewal is an actor that participates in all the stages of the procedure by providing data or submitting comments, which enables it to influence the conduct of the procedure. That is why the legislature decided to make the extension of the approval period subject to the condition that any delay be ‘beyond the control of the applicant’ for renewal.

50 By contrast, as regards an extension of the approval period, the applicant for renewal is not required to submit an application and there is no provision for a procedure of consultation with it. The procedure is initiated automatically and the Commission must ascertain whether or not the delay in the conduct of the renewal procedure is due to reasons ‘beyond the control of the applicant’.

51 Accordingly, the applicant’s conduct must be assessed in the light of the various stages of the renewal procedure that precede a possible extension of the approval period and in which the applicant had a role as a participant.

52 In that regard, Article 17 of Regulation No 1107/2009 is the expression of a balancing of the various interests at stake that is compatible with the objectives of that regulation and with the precautionary principle.

53 As regards the objectives covered by the first paragraph of Article 17 of Regulation No 1107/2009, it should be borne in mind that, under Article 1(3) thereof, the purpose of Regulation No 1107/2009 is to ensure a high level of protection of both human and animal health and the environment and to improve the functioning of the internal market through the harmonisation of the rules on the placing on the market of plant protection products, while improving agricultural production. The Commission is therefore right to argue that the objective of Regulation No 1107/2009 is manifold.

54 In requiring that a high level of protection of the environment be maintained, Regulation No 1107/2009 is applying Article 11 TFEU, which provides that environmental protection requirements must be integrated into the definition and implementation of the European Union’s policies and activities, in particular with a view to promoting sustainable development, and Article 114(3) TFEU, which gives concrete expression to that obligation. The latter provision indeed states that, in its proposals concerning, inter alia, environmental protection, made on the basis of the approximation of laws which have as their object the establishment and functioning of the internal market, the Commission will take as a base a high level of protection, taking account in particular of any new development based on scientific facts, and that, within their respective powers, the European Parliament and the Council of the European Union will also seek to achieve this objective. That protection takes precedence over economic considerations, with the result that it may justify adverse economic consequences, even those which are substantial, for certain traders (see judgment of 17 March 2021, *FMC v Commission*, T-719/17, EU:T:2021:143, paragraph 59 and the case-law cited).

55 It follows that, among the various objectives of Regulation No 1107/2009, the Commission must attach particular importance to that of ensuring a high level of protection of human and animal health and the environment when it is managing a procedure for the renewal of the approval of an active substance, that being all the more the case when that procedure exceeds the time frame laid down for carrying it out and when it grants an extension of the approval period under Article 17 of that regulation.

56 When assessing the role of the applicant for renewal in delays occurring in a renewal procedure, the Commission must satisfy itself not only that that applicant acted within the time limits, but also that the delay in the conduct of the renewal procedure is unconnected with its actions, that is to say, that it did not act in such a way as to cause or contribute to delays.

57 It follows that an approach which would require an evaluation of the intent on the part of the applicant for renewal concerning delays in the conduct of the procedure is too restrictive and risks upsetting the balance struck by the legislature in a manner that would favour the interests of the applicant for renewal. Such a restrictive approach that is favourable to the applicant for renewal would also conflict with the case-law, which requires that the high level of protection for human health and the environment take precedence over economic considerations (see, to that effect, judgment of 17 March 2021, *FMC v Commission*, T-719/17, EU:T:2021:143, paragraph 59 and the case-law cited), and with the context of which the rule set out in the first paragraph of Article 17 of Regulation No 1107/2009 is part, and which is composed of a regulatory framework which defines in detail the way in which the applicant for renewal participates in the procedure.

58 In order to respect the balance established by the legislature, the first paragraph of Article 17 of Regulation No 1107/2009 should be interpreted as requiring an objective and *in concreto* analysis of the reasons for the delay in order to establish that that delay is beyond the control of the applicant, which must have diligently complied with all the rules applicable to the renewal. In that regard, the fact that the delay may, at least in part, be due to the late submission of a report or conclusion by one or more of the authorities involved in the renewal procedure is not sufficient to rule out that some role has been played by the applicant, since it may itself have been at the origin of such a delay, even if it adhered to the time limits imposed on it by Regulation No 1107/2009. That may be the case, in particular, where the quality of the data provided in the course of the procedure proves to be inadequate.

59 In the present case, the Commission, in paragraph 61 of the contested decision, examined the applicant’s arguments that the applicant for renewal had not submitted a complete dossier at the beginning of the renewal procedure, was responsible for the data gaps, and did not submit all the relevant scientific information that was available at the time of the application for renewal. The Commission explains that, where a rapporteur Member State finds that an application and supplementary dossiers are admissible, then that means that the application is complete and has been submitted within the set time limit. Subsequent delays for other reasons cannot be attributed to an admissible application. Requests for additional information are a normal part of the renewal procedure, in particular during the risk assessment, and do not imply that the application is incomplete or should not have been accepted as admissible.

60 In paragraph 62 of the contested decision, the Commission examines the applicant’s argument that the applicant for renewal submitted a large amount of information which required considerable time and staff on the part of the authorities. It states that that does not constitute a circumstance falling under the control of the applicant for renewal, which merely provided the information required by the applicable legal framework. The Commission observes that there is an unprecedented amount of literature in the case of glyphosate. However, the fact that the applicant submitted a great deal of data shows that it acted diligently and in accordance with the legal requirements. Delays resulting from the complexity of the assessment to be carried out by the rapporteur Member State or EFSA are among the most common situations of delay that is beyond the control of the applicant for renewal.

61 The Commission explains in paragraphs 30 to 33 of the contested decision that given the volume of new information received during the public consultation, the number of action points identified by the assessment group on glyphosate and the need to evaluate the additional information requested by EFSA from the applicant for renewal, the assessment group on glyphosate stated that more time was needed in order to submit a draft report. The Commission states that EFSA and ECHA subsequently announced that, due to the expected delay in submission of the assessment group’s draft report on glyphosate and in order to complete the peer review process, the delivery of EFSA’s conclusion would be delayed and that it would take place in July 2023. In the light of that announcement, the Commission decided to extend the approval period for glyphosate, which was due to expire on 15 December 2022.

62 In response to the applicant’s arguments concerning alleged data gaps, the Commission states, in paragraphs 65 to 68 of the contested decision, that those gaps are not the responsibility of the applicant since it submitted a complete application within the time limits and since requests for additional information are a normal part of any renewal procedure. In addition, the existence of data gaps is not relevant for the application of Article 17 of Regulation No 1107/2009 when the conditions for the information that are article are met, namely the fact that it is likely that the approval will expire before a decision on renewal can be adopted and that the reasons for that delay are beyond the control of the applicant. The Commission adds that considerations concerning data gaps and gaps in the risk assessment, as well as new data submitted by the applicant, might be relevant for assessing the legality of the renewal decision, but not in the context of a procedure which concerns the legality of the extension of the approval period.

63 It is apparent from the contested decision that the applicant did not scrutinise concretely, even in brief, the role of the applicant for renewal in relation to the fact that the decision on renewal could not be taken within the prescribed time periods. It merely identified other factors behind the delay, such as the complexity of the assessment to be carried out by the rapporteur Member State or EFSA or the volume of new information received through the public consultation for glyphosate, which was a delay that was not due to the applicant for renewal.

64 The Commission’s explanations concerning the fact that the application for renewal was admissible and that the requests for additional information did not mean that the application for renewal was not complete, or that the volume of information submitted meant that the applicant for renewal had been diligent and had complied with its obligations, show that it did not examine either the nature of the missing information or the relevance of the information submitted in the present case. In addition, the Commission’s explanations set out in paragraph 62 above show that it did not carry out any analysis of the nature and impact on the length of the procedure of the data gaps referred to by the applicant, thus failing in its duty to ascertain whether the conditions laid down in Article 17 of Regulation No 1107/2009 are satisfied.

65 In its written pleadings, the Commission also submits that Article 17 of Regulation No 1107/2009 does not in any way require it to be established whether or to what extent the applicant for renewal may be responsible for the likelihood that the approval which is the subject of the application for renewal will expire before the adoption of a renewal decision or whether a delay in the renewal procedure is based solely on issues which are not the responsibility of the applicant for renewal. Nor does that provision, according to the Commission, require an assessment of the renewal applicant’s possible contribution to a delay caused by other actors.

66 However, by failing to carry out an *in concreto* analysis of the role of the applicant for renewal, by applying a restrictive approach to the role of the applicant for renewal in possible delays in the renewal procedure, and by exonerating the latter where another actor contributed, even in part, to the delay, the Commission erred in law in interpreting Article 17 of Regulation No 1107/2009 and failed to respect the balance established by the legislature (see paragraphs 52 and 57 above). The fact, as maintained by Bayer Agriculture, that many parties are involved in the renewal procedure does not by any means exempt the Commission from an examination of all the factors behind the delay, including those connected with the applicant for renewal.

67 That finding may likewise not be regarded by Bayer Agriculture’s argument that the applicant has failed to show that the procedure would have been conducted more quickly if the applicant for renewal had provided documents at an earlier stage.

68 In fact, the Commission erred in law in its interpretation of the condition for applying Article 17 of Regulation No 1107/2009 that concerns the role of the applicant for renewal in a delay in the renewal procedure, irrespective of the accuracy of the facts relied on by the applicant.

69 It follows that the second plea in law must be upheld.

70 Accordingly, the contested decision must be annulled, without there being any need to examine the other pleas raised by the applicant.

Costs

71 Under Article 134(1) of the Rules of Procedure of the General Court, the unsuccessful party is to be ordered to pay the costs if they have been applied for in the successful party’s pleadings. Since the Commission has been unsuccessful, it must be ordered to bear its own costs and to pay those incurred by the applicant, in accordance with the form of order sought by the latter.

72 Pursuant to Article 138(3) of the Rules of Procedure, Bayer Agriculture is to bear its own costs.

On those grounds,

THE GENERAL COURT (Fourth Chamber, Extended Composition)

hereby:

1. **Annuls Commission Decision Ares(2023) 4611321 of 3 July 2023 rejecting the request for internal review submitted by Aurelia Stiftung concerning Commission Implementing Regulation (EU) 2022/2364 of 2 December 2022 amending Implementing Regulation (EU) No 540/2011 as regards the extension of the approval period of the active substance glyphosate;**

2. **The European Commission shall bear its own costs and pay those incurred by Aurelia Stiftung;**