



European Union MRL Litigation

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EU Commission Regulation 2023/334

2020

EU Farm to Fork Biodiversity Strategy as part of Green Deal to address EU 2030 climate targets

2022

Draft Regulation lowering MRLs for clothianidin and thiamethoxam

Feb. 2, 2023

EU Commission publishes MRL Regulation 2023/334 lowering MRLs for clothianidin and thiamethoxam to protect pollinators in foreign jurisdictions

EU Commission Regulation 2023/334

- “As the decline in pollinators is an issue of international concern, Union measures need to be adopted to protect pollinator populations worldwide, including bees, from the risks of active substances, such as the neonicotinoids clothianidin and thiamethoxam. **Preserving the pollinator population within the Union only would be insufficient to reverse the worldwide decline of pollinator populations and its effects on biodiversity, agricultural production and food security, also in the Union.**”
- “Therefore, taking into account . . . Article 14(2), read in the light of Article 11 of the Treaty of the Functioning of the European Union, requiring that **‘environmental protection requirements must be integrated** into the definition and implementation of the Union’s policies and activities, in particular with a view to promoting sustainable development’, **all the current MRLs for clothianidin and/or thiamethoxam** as set out by Regulation (EC) No 396/2005 **should be lowered to the Limit of Determination (LODs).**”

May 11, 2023

- Deadline to Bring Legal Action in the European Court of Justice





Legal Action Filed

- Two applicants filed legal challenge against the European Commission on May 10, 2023
 - Maud Tea & Seed Co. Ltd
 - Fresh Produce Consortium of Kenya
- Case T-247/23



European Court Filings

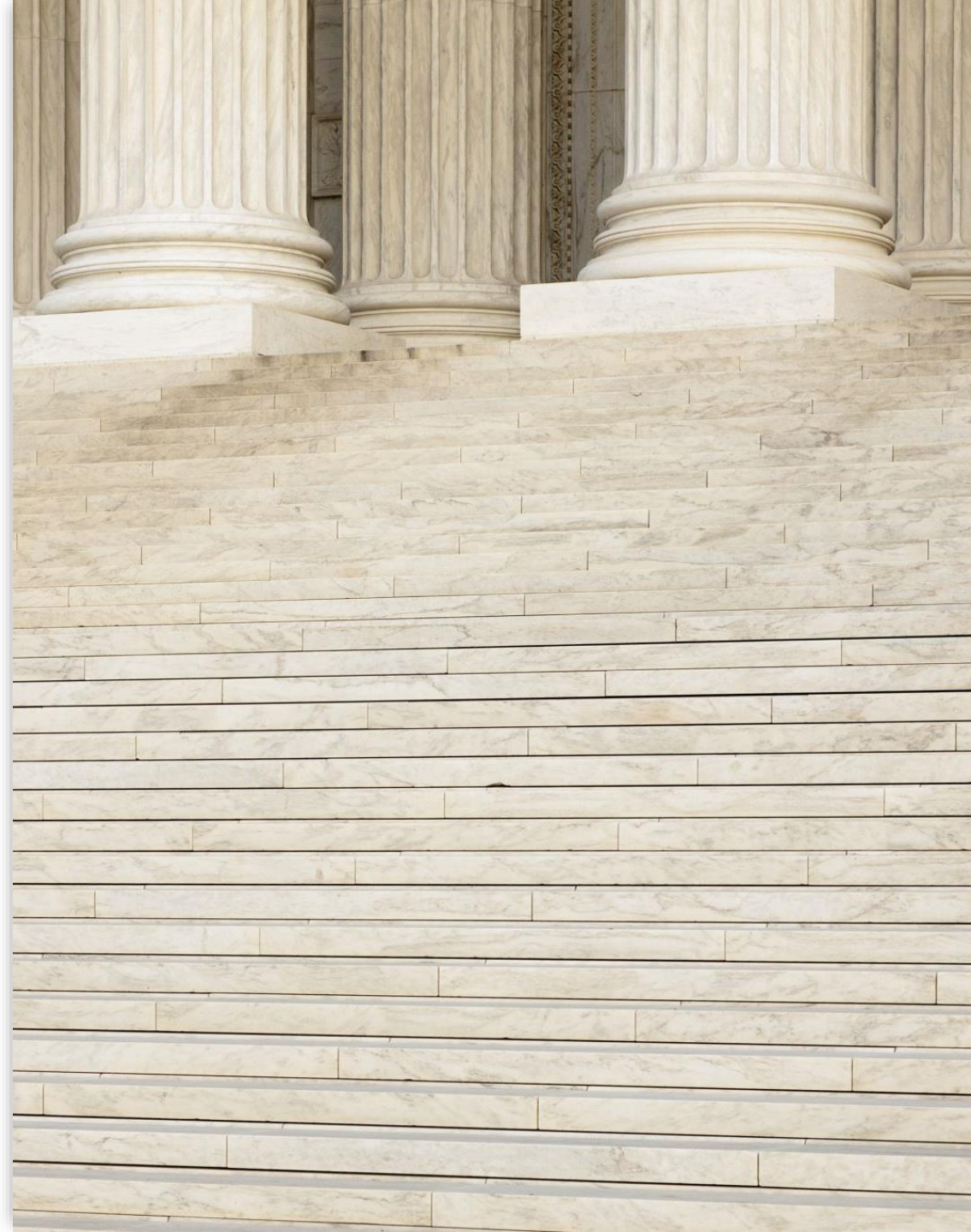
- Court filings in the European Court of Justice are not public documents
- Only parties to a case have access to court filings
- We have access to two documents published on the court's website

| List of results by case | | List of documents | | | |
|-------------------------|------------------|-------------------|------------------------------|---------------------------|---|
| Case | Document | Date | Name of the parties | Subject-matter | Curia |
| 2 document(s) | | | | | |
| T-247/23 | Order | 15/04/2024 | Maud Tea & Seed v Commission | Agriculture and Fisheries |  |
| T-247/23 | Application (OJ) | 28/07/2023 | Maud Tea & Seed v Commission | Agriculture and Fisheries |  |

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Maud Tea & Seed v. Commission

- Case Synopsis Published on August 14, 2023, in the Official Journal of the European Union
- Relief Sought By Applicants (Plaintiffs)
 - Court to find application (complaint) is admissible
 - Annulment of Regulation 2023/334 in its entirety
 - Or partial annulment of MRL limits on teas, fresh fruits, and vegetables



Legal Arguments in Public Case Synopsis

- Contested Regulation constitutes an **exercise of extraterritorial jurisdiction** by the Commission which exceeds the powers delegated to the Commission under the MRL Regulation and **infringes upon the EU Treaties as well as general rules of public international law.**
- Contested Regulation **manifestly exceeds the subject matter scope of the powers delegated to the Commission** under the MRL Regulation ; subsidiarily, if the MRL Regulation is found to be a sufficient legal basis for the Contested Regulation, the MRL Regulation itself is ultra vires as it exceeds the permissible scope of delegated powers under the EU Treaties.
- Contested Regulation violates several provisions of the MRL Regulation.
- Contested Regulation violates the **principle of proportionality.**
- Contested Regulation violates the **principles of legal certainty** and transparency.



Typical Procedural Steps

- The court generally rules on admissibility (standing) of an applicant, but not always, before allowing the case to proceed to the merits
- If the case proceeds to the merits, there is typically additional briefing and oral argument
- Process can take many months or years

What About Intervention?

- Deadline to file a motion to intervene was October 5, 2023
- Same deadline for parties wishing to intervene on the side of the applicants or the Commission
- The court typically will not disclose the names of parties that seek to intervene unless the court grants their motions



What Next?

- If the court rules in favor of the Commission, it will issue an order closing the proceedings
- If the court finds the case is admissible and rules against the Commission, it will issue an order stating whether the regulation is annulled in full or in part
- There could also be appellate proceedings



Thank you