

Pleas in law and main arguments

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

1. First plea in law, alleging incorrect exercise of the European Commission's power to exclude amounts from European Union financing

— By applying the flat rate corrections set out in Implementing Decision (EU) 2015/103, the Commission infringed Article 52 of Regulation (EU) 1306/2013 of 17 December 2013 on the financing, management and monitoring of the common agricultural policy and repealing Council Regulations (EEC) No 352/78, (EC) No 165/94, (EC) No 2799/98, (EC) No 814/2000, (EC) No 1290/2005 and (EC) No 485/2008 and the Commission Guidelines for applying financial corrections set out in Commission Document No VI/5330/97 of 23 December 1997 entitled 'Guidelines for the calculation of financial consequences when preparing the decision regarding the clearing of the accounts of the EAGGF Guarantee Section'.

— The Commission was required to establish the corrections by identifying amounts unduly spent by Romania, and not to apply flat rate corrections bearing in mind that the nature of the situation did not require this and that the Romanian State had made the necessary information available to the Commission to calculate the corrections. In those circumstances it cannot be considered that a disproportionate effort was required on the part of the Commission, in order to calculate the corrections based on actual loss of funds.

2. Second plea in law, alleging insufficient and inadequate reasons for the contested decision

— Implementing Decision (EU) 2015/103 was not supported by sufficient reasons since when adopting that decision, the Commission did not give sufficient reasons for choosing to apply a flat rate calculation to the irregularities found in the audits, and has failed adequately to justify why the arguments raised by Romania regarding the possibility of applying of a calculated correction cannot be accepted and taken into consideration in establishing the final adjustment.

3. Third plea in law, alleging breach of the principle of proportionality

— The contested decision breaches the principle of proportionality in so far as application of a flat rate correction of 10 % regarding the expenditure for the 2009 claim year and 5 % for the 2010 claim year gives rise to an overestimate of losses to EU funds resulting from the irregularities found in the audits, the rates mentioned not taking into account the nature and the seriousness of the infringements or the financial implications for the EU Budget.

**Action brought on 1 April 2015 — Abertis Infraestructuras and Abertis Telecom Satélites v
Commission**

(Case T-158/15)

(2015/C 178/21)

Language of the case: Spanish

Parties

Applicants: Abertis Infraestructuras, SA (Barcelona, Spain) and Abertis Telecom Satélites, SA (Madrid, Spain) (represented by: J. Buendía Sierra, M. Maragall de Gispert, M. Santa María Fernández, J. Panero Rivas, and A. Balcells Cartagena, lawyers)

Defendant: European Commission

Form of order sought

The applicants claim that the General Court should:

- admit and uphold the grounds for annulment set out in this application;
- annul Article 1 of the contested decision in so far as it declares that the new administrative interpretation of Article 12 TRLIS adopted by the Spanish administration must be regarded as State aid which is incompatible with the internal market;
- annul Article 4.1 of the contested decision in so far as it requires the Kingdom of Spain to put an end to the alleged aid scheme as described in Article 1;
- annul parts 2, 3, 4 and 5 of Article 4 of the contested decision in so far as they require the Kingdom of Spain to recover the amounts considered by the Commission to be State aid;
- in the alternative, limit the scope of the recovery obligation imposed on the Kingdom of Spain in Article 4.2 of the contested decision in the same terms as in the First and Second Decisions; and
- order the Commission to pay the costs.

Pleas in law and main arguments

The pleas in law and main arguments are similar to those put forward in Cases T-826/14 *Spain v Commission* and T-12/15 *Banco Santander and Santusa v Commission*.

The applicants claim, in particular, that the Commission erred in law in the legal classification of the measure as State aid, in the identification of the beneficiary of the measure and in the characterisation of the administrative interpretation as State aid distinct from that examined in the Commission's decisions, and that it breached the principles of the protection of legitimate expectations, of estoppel and of legal certainty.

Action brought on 2 April 2015 — Delta Group agroalimentare v Commission**(Case T-163/15)**

(2015/C 178/22)

*Language of the case: Italian***Parties**

Applicant: Delta Group agroalimentare Srl (Porto Viro, Italy) (represented by: V. Migliorini, lawyer)

Defendant: European Commission

Forms of order sought

The applicant claims that the Court should:

- declare null and void and, at all events, annul letter Ref. Ares (2015) 528512, of 9 February 2015, from Jerzy Plewa, Director-General of the Directorate-General for Agriculture and Rural Development at the European Commission, addressed to Mr Scabin, the applicant's authorised representative, received on the same date, rejecting the applicant's request of 13 January 2015 that the Commission take measures pursuant to either Article 219(1) or Article 221 of Regulation (EU) No 1308/2013, and, in particular, fix the export refunds pursuant to Article 196 of Regulation (EU) No 1308/2013, in the poultrymeat sector.
- order the Commission to pay the costs.