

## GENERAL COURT

**Action brought on 12 July 2013 — Republic of Lithuania v European Commission**

(Case T-365/13)

(2013/C 284/03)

*Language of the case: Lithuanian***Parties**

*Applicant:* Republic of Lithuania (represented by: D. Kriauciūnas and R. Krasuckaitė)

*Defendant:* European Commission

**Form of order sought**

The applicant claims that the General Court should:

1. declare European Commission Decision No C(2013) 2436 final of 2 May 2013 to be invalid in so far as it applies to the Republic of Lithuania and in so far as it refuses to finance specific EAFRD expenditure incurred by the Republic of Lithuania;
2. order the European Commission to pay the costs.

**Pleas in law and main arguments**

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

The applicant's first plea in law alleges that, in adopting the contested decision, the Commission breached Articles 10 and 15 of Regulation (EC) No 1975/2006 <sup>(1)</sup> and Article 48 of Regulation (EC) No 1974/2006 <sup>(2)</sup> in that, in requiring that a superfluous check (on-the-spot verifications) be carried out in the event of the appropriateness of a criterion (*livestock density*) for the support measure relating to natural handicaps, it failed to have regard for the discretion of Member States, confirmed in those provisions, to choose for themselves the criteria and methods of conducting checks and failed to take account of the arguments of the Lithuanian authorities with regard to the effectiveness and efficacy of the checking method chosen.

The applicant's second plea in law alleges that the Commission breached Article 31(2) of Regulation (EC) No 1290/2005 <sup>(3)</sup> and the principle of proportionality inasmuch as, not proving that there was any significant risk to the Fund, it unjustifiably applied a 5 % financial correction on the ground of an ostensibly inappropriate check under the *livestock density* criterion. The Commission ought, pursuant to the requirements laid down in Article 31(2) of Regulation (EC) No 1290/2005, to have made any financial corrections proportionate to the infringements established and to the risk posed to the

European Union budget. The corrections laid down in the contested decision go beyond what is appropriate and necessary for the purpose of protecting the budgetary interests of the European Union.

The applicant's third plea in law is to the effect that the Commission, proceeding on the basis of a misinterpretation of Article 14(2) of Regulation (EC) No 1975/2006 and of Article 48(1) of Regulation (EC) No 1974/2006, and in breach of Article 29 of Regulation (EC) No 796/2004, <sup>(4)</sup> unjustifiably imposed a 2 % financial correction on the ground that, during an on-the-spot visit designed to monitor all obligations, 100 % of all parcels of land were not checked.

The applicant's fourth plea in law alleges that, in adopting the contested decision, the Commission breached Article 10(2) of Regulation (EC) No 1975/2006, as, in proposing that an ineffective check on the use of *fertilisers* (administrative check) be applied, the Commission failed to have regard for the discretion of Member States, confirmed in that provision, to choose for themselves the criteria and methods of conducting checks and failed to take account of the arguments of the Lithuanian authorities concerning the effectiveness and efficacy of the checking method chosen (the visual method).

The applicant's fifth plea in law is to the effect that the Commission breached Article 31(2) of Regulation (EC) No 1290/2005 and the principle of proportionality inasmuch as, not proving that there was any significant risk to the Fund, it unjustifiably applied a 5 % financial correction on the ground of an ostensibly unsuitable check in respect of the *fertiliser use* criterion. The Commission ought, pursuant to the requirements laid down in Article 31(2) of Regulation (EC) No 1290/2005, to have made any financial correction proportionate to the infringements established and to the risk posed to the European Union budget. The corrections laid down in the contested decision go beyond what is appropriate and necessary for the purpose of protecting the budgetary interests of the European Union.

---

<sup>(1)</sup> Commission Regulation (EC) No 1975/2006 of 7 December 2006 laying down detailed rules for the implementation of Council Regulation (EC) No 1698/2005, as regards the implementation of control procedures as well as cross-compliance in respect of rural development support measures (OJ 2006 L 368, p. 74).

<sup>(2)</sup> Commission Regulation (EC) No 1974/2006 of 15 December 2006 laying down detailed rules for the application of Council Regulation (EC) No 1698/2005 on support for rural development by the European Agricultural Fund for Rural Development (EAFRD) (OJ 2006 L 368, p. 15).

<sup>(3)</sup> Council Regulation (EC) No 1290/2005 of 21 June 2005 on the financing of the common agricultural policy (OJ 2005 L 209, p. 1).

<sup>(4)</sup> Commission Regulation (EC) No 796/2004 of 21 April 2004 laying down detailed rules for the implementation of cross-compliance, modulation and the integrated administration and control system provided for in Council Regulation (EC) No 1782/2003 establishing common rules for direct support schemes under the common agricultural policy and establishing certain support schemes for farmers (OJ 2004 L 141, p. 18).