

**Operative part of the order**

1. *There is no longer any need to adjudicate on the action.*
2. *Rewe-Beteiligungs-Holding International GmbH is ordered to bear its own costs and pay those incurred by the European Union Intellectual Property Office (EUIPO).*

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<sup>(1)</sup> OJ C 166, 14.5.2018.

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**Action brought on 24 August 2018 — Poland v Commission****(Case T-506/18)**

(2018/C 427/105)

*Language of the case: Polish***Parties**

*Applicant:* Republic of Poland (represented by: B. Majczyna, acting as Agent)

*Defendant:* European Commission

**Form of order sought**

The applicant claims that the Court should:

- annul Commission Implementing Decision C(2018) 3826 final of 13 June 2018 excluding from European Union financing certain expenditure incurred by the Member States under the European Agricultural Guarantee Fund (EAGF) and under the European Agricultural Fund for Rural Development (EAFRD), <sup>(1)</sup> in so far as it excludes from European Union financing the amounts of EUR 1 421 755,79 and EUR 1 436 426,73 in expenditure incurred by the payment agency accredited by the Republic of Poland;
- order the European Commission to pay the costs.

**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 infringement of Article 52(1) of Regulation No 1306/2013 <sup>(2)</sup> through the application of financial corrections on the basis of incorrect findings of fact and an incorrect interpretation of the law.
  - The Republic of Poland emphasises that the amounts excluded from European Union financing by virtue of the contested decision were spent in accordance with the provisions of EU legislation laying down the rules for implementing specific support for the tobacco sector, namely Regulation No 73/2009, <sup>(3)</sup> Regulation No 1120/2009 <sup>(4)</sup> and Regulation No 1122/2009. <sup>(5)</sup> The way in which that support was implemented by the Polish authorities was also in accordance with national legislation and the Programme communicated to the Commission of activities carried out in Poland in the context of the specific support provided for in Article 68 of Regulation No 73/2009.
  - With regard to the part of the plea which concerns on-the-spot checks at producer level, the Republic of Poland states that there was no obligation, either under EU law or under national law, for producers to deliver all the tobacco produced to the initial processors. The Polish system of on-the-spot checks fully enabled the effective verification of whether all the eligibility conditions for support had been satisfied.

- With regard to the part of the plea which concerns on-the-spot checks at the point of delivery, the Republic of Poland states that those checks fully ensured the verification of all the quality requirements to be met by the raw tobacco qualifying for support, including, in particular, the requirements concerning humidity and sand and dirt content.
  - With regard to the Commission's complaint concerning the lack of a specific system of reductions and exclusions, the Republic of Poland states that the Polish system of penalties in the field of specific support for the tobacco sector was entirely in line with Article 21(1) of Regulation No 73/2009. In particular, that system was very restrictive and prevented any risk of loss to the Fund.
2. Second plea in law, alleging infringement of Article 52(2) of Regulation No 1306/2013 through the application of a flat-rate correction at a level that was flagrantly excessive in relation to the risk of potential financial damage to the European Union budget.

The Republic of Poland takes the view that the flat-rate correction at a level of 5 % applied by the Commission is too high and exceeds the potential maximum loss that could be incurred by the Fund.

3. Third plea in law, alleging infringement of the second paragraph of Article 296 TFEU.

In that regard, the Republic of Poland points to the contradictions arising from the pleadings submitted by the Commission in the course of the investigative proceedings, and also to the lack of justification provided by the Commission in respect of the complaint of infringement of some of the provisions of EU law relied on by that institution.

<sup>(1)</sup> Commission Implementing Decision (EU) 2018/873 (OJ 2018 L 152, p. 29).

<sup>(2)</sup> Regulation (EU) No 1306/2013 of the European Parliament and of the Council 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 (OJ 2013 L 347, p. 549).

<sup>(3)</sup> Council Regulation (EC) No 73/2009 of 19 January 2009 establishing common rules for direct support schemes for farmers under the common agricultural policy and establishing certain support schemes for farmers, amending Regulations (EC) No 1290/2005, (EC) No 247/2006, (EC) No 378/2007 and repealing Regulation (EC) No 1782/2003 (OJ 2009 L 30, p. 16).

<sup>(4)</sup> Commission Regulation (EC) No 1120/2009 of 29 October 2009 laying down detailed rules for the implementation of the single payment scheme provided for in Title III of Council Regulation (EC) No 73/2009 establishing common rules for direct support schemes for farmers under the common agricultural policy and establishing certain support schemes for farmers (OJ 2009 L 316, p. 1).

<sup>(5)</sup> Commission Regulation (EC) No 1122/2009 of 30 November 2009 laying down detailed rules for the implementation of Council Regulation (EC) No 73/2009 as regards cross-compliance, modulation and the integrated administration and control system, under the direct support schemes for farmers provided for in that Regulation, as well as for the implementation of Council Regulation (EC) No 1234/2007 as regards cross-compliance under the support scheme provided for the wine sector (OJ 2009 L 316, p. 65).

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**Action brought on 29 August 2018 — Del Valle Ruiz and Others V SRB**

**(Case T-514/18)**

(2018/C 427/106)

*Language of the case: English*

**Parties**

**Applicants:** Antonio Del Valle Ruiz (Mexico City, Mexico) and 36 others (represented by: P. Saini, QC, J. Pobjoy, Barrister and R. Boynton, Solicitor)

**Defendant:** Single Resolution Board (SRB)