

**Form of order sought**

The applicant claims that the Court should:

- declare that the European Union has incurred non-contractual liability for the unlawful and negligent conduct of the European Commission, the Single Resolution Board and the European Central Bank in respect of the facts set out in the application;
- order the European Union to compensate the applicant in the amount of EUR 713 320,65, corresponding to the calculations and the quantification set out in the expert report annexed to the application, plus statutory interest, and order the defendant 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, alleging that the Single Resolution Board acted unlawfully by making alarmist public statements and engaging in actions (in particular leaks) constituting irresponsible conduct, which led to the immediate collapse in the share price of Banco Popular Español, S.A. and precipitated its resolution.
2. Second plea, alleging that the Single Resolution Board and the European Commission acted negligently by adopting and approving the resolution of Banco Popular Español, S.A. without having verified and confirmed, in accordance with EU legislation, whether the requirements and preconditions for applying that resolution mechanism had been met and by failing — once that mechanism was agreed upon — to comply with EU legislation on the resolution procedure or with the rights of the shareholders and/or holders of securities in the bank.
3. Third plea, alleging that the European Central Bank failed to exercise care in monitoring, supervising, forecasting, regulating and establishing the necessary mechanisms to ensure the liquidity of Banco Popular Español, S.A. and to prevent its resolution.

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**Action brought on 16 August 2022 — Portugal v Commission**

(Case T-512/22)

(2022/C 398/38)

*Language of the case: Portuguese*

**Parties**

*Applicant:* Portuguese Republic (represented by: P. Barros da Costa, H. Almeida, N. Domingues and G. Gomes, acting as Agents)

*Defendant:* European Commission

**Form of order sought**

The applicant claims that the General Court should:

- annul Commission Implementing Decision (EU) 2022/908 of 8 June 2022 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) (notified under document C(2022) 3543), in so far as it excludes from EU financing the amount of EUR 117 066 097,40 relating to expenditure declared by the Portuguese Republic in connection with cross-compliance, in the financial years for the 2016, 2017, 2018 and 2019 campaigns;
- order the European Commission to pay the costs.

### Pleas in law and main arguments

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

- (1) First plea, alleging error in the presumptions of fact and law, in that the Commission found that the Portuguese Government should have applied the geo-spatial application system prior to the 2015 campaign — infringement of Article 17 of Commission Implementing Regulation (EU) No 809/14 <sup>(1)</sup> and of Article 72(3) of Regulation (EU) No 1306/2013 of the European Parliament and of the Council, <sup>(2)</sup> in so far as the Commission started from a false premiss and erred in law with regard to the presumptions of fact and law when it found that the Portuguese authorities had failed duly to assess the amounts paid in campaign years 2016 to 2019, thereby creating a risk for the fund.
- (2) Second plea, alleging breach of the principle of proportionality understood as the principle of adequacy and the principle of necessity or the debit principle in the ‘Calculation of the financial correction’, and breach of the principle of sincere cooperation — infringement of Article 5 and Article 4(3) of the Treaty on European Union (TEU), in that the Commission applied a flat-rate correction which exceeds the objectives referred to by the legislation, and failed to take into account the substantiated calculation, submitted by the national authorities, which was carried out and established in accordance with the Commission’s guidelines.
- (3) Third plea, alleging error of law and contradictory reasoning, and breach of the principle of proportionality — infringement of Article 52 of Regulation No 1306/2013 and Article 5 TEU, in that the national authorities identified the payments affected by the alleged irregularity as being those made in relation to the financial years 2016 and 2017, once the Omnibus Regulation entered into force on 1 January 2018, and that, to that extent, the total amount of EUR 31 843 249,44 proposed by the national authorities is appreciably different to the value of the financial correction applied by the Commission.
- (4) Fourth plea, alleging inadequate reasoning — infringement of the *ratio legis* and objective of Commission Delegated Regulation (EU) No 907/2014, <sup>(3)</sup> in so far as the communication from the Commission is vitiated by an imprecise statement of reasons in so far as concerns the population of the 12 % and 66 % of the surface area eligible for standard on-the-spot checks and for remote-sensing checks, by means of which the data relating to the risk for the fund and the corresponding financial correction applicable were extrapolated.
- (5) Fifth plea, alleging breach of the principle of proportionality — infringement of Article 5 TEU, in so far as the amount determined by the Commission in respect of the calculation of the risk to the funds, in so far as concerns campaign years 2016 to 2019, is excessive, with the result that the amounts excluded from financing are disproportionate.

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<sup>(1)</sup> Commission Implementing Regulation (EU) No 809/2014 of 17 July 2014 laying down rules for the application of Regulation (EU) No 1306/2013 of the European Parliament and of the Council with regard to the integrated administration and control system, rural development measures and cross compliance.

<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.

<sup>(3)</sup> Commission Delegated Regulation (EU) No 907/2014 of 11 March 2014 supplementing Regulation (EU) No 1306/2013 of the European Parliament and of the Council with regard to paying agencies and other bodies, financial management, clearance of accounts, securities and use of euro.

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**Action brought on 25 August 2022 — Deutsche Glasfaser Wholesale v EUIPO — O2 Worldwide (brightblue)**

**(Case T-516/22)**

**(2022/C 398/39)**

*Language in which the application was lodged: English*

### Parties

**Applicant:** Deutsche Glasfaser Wholesale GmbH (Borken, Germany) (represented by: A. Doepner-Thiele and U. Kelp, lawyers)