



## Reports of Cases

### Judgment of the General Court (Fourth Chamber) of 22 November 2018 – Lithuania v Commission

(Case T-508/15)

(EAGGF, EAGF and EAFRD — Expenditure excluded from financing — Expenditure by Lithuania — Aid for early retirement — Article 11(1) of Regulation (EC) No 1257/1999 — Article 23 of Regulation (EC) No 1698/2005 — Concept of carrying out a commercial farming activity — Connection with the concept of semi-subsistence farming)

1. *Agriculture — EAGGF financing — Clearance of accounts — Disallowance of expenses arising from irregularities in applying EU rules — Challenge by the Member State concerned — Burden of proof — Shared by the Commission and the Member State*

*(European Parliament and Council Regulation No 1306/2013)*

*(see paras 52-55)*

2. *Agriculture — Common agricultural policy — Discretion of the EU institutions — Judicial review — Limits*

*(see para. 56)*

3. *Agriculture — Common agricultural policy — EAGGF, EAGF and EAFRD financing — Support for rural development — Mechanism granting aid for early retirement — Regulation No 1257/1999 and Regulation No 1698/2005 — Conditions for granting — Exercise of an agricultural activity for commercial purposes before the surrender of the holding — Obligation to actually carry out the activity during the period prior to cessation*

*(Council Regulations No 1257/1999, Art. 11(1), first indent, and No 1698/2005, Art. 23(2)(b))*

*(see paras 66-69)*

4. *Agriculture — Common agricultural policy — EAGGF, EAGF and EAFRD financing — Support for rural development — Mechanism granting aid for early retirement — Regulation No 1257/1999 and Regulation No 1698/2005 — Conditions for granting — Exercise of an agricultural activity for commercial purposes before the surrender of the holding — Criteria for assessment*

*(Council Regulations No 1257/1999, Art. 11(1), first indent, and No 1698/2005, Art. 23(2)(b))*

*(see paras 72, 84, 87)*

5. *Agriculture — EAGGF, EAGF and EAFRD financing — Clearance of accounts — Disallowance of expenses arising from irregularities in applying EU rules — Finding of defects in the control system established by a Member State — Application of flat-rate correction — Breach of principle of proportionality — None*

*(European Parliament and Council Regulation No 1306/2013, Art. 52(2))*

*(see paras 108-113)*

6. *Agriculture — EAGGF, EAGF and EAFRD financing — Clearance of accounts — Procedure — Conciliation procedure — Opinion of the conciliation body — No binding effect*

*(Commission Regulation No 885/2006, Art. 12)*

*(see para. 114)*

## **Re:**

Application based on Article 263 TFEU seeking annulment of Commission Implementing Decision (EU) 2015/1119 of 22 June 2015 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) (OJ 2015 L 182, p. 39), in that that decision imposed on the Republic of Lithuania a flat-rate financial correction of 5%, thereby excluding the sum of EUR 1 938 300.08 from financing under the 'Early retirement' measure during the period from 16 October 2010 to 15 October 2013.

## **Operative part**

The Court:

1. Dismisses the action;
2. Orders the Republic of Lithuania to pay the costs.