

From a substantive legal standpoint, the contested measure is allegedly based on a manifest error of assessment and violates, according to the applicant (i) Article 4(1)(f) of Directive 91/414/EEC, (ii) Article 5 of the MRL Directive, as well as (iii) fundamental principles of Community law, namely (a) legitimate expectations and legal certainty, (b) Article 211 EC and the principle of sound administration, and (c) the principle of proportionality.

(¹) Commission Directive 2006/92/EC of 9 November 2006 amending annexes to Council Directives 76/895/EEC, 86/362/EEC and 90/642/EEC as regards maximum levels for captan, dichlorvos, ethion and folpet (OJ, L 311, p. 31).

Action brought on 12 February 2007 — Hellenic Republic v Commission of the European Communities

(Case T-33/07)

(2007/C 82/91)

Language of the case: Greek

Parties

Applicant: Hellenic Republic (represented by: I. Khalkias and G. Kanellopoulos)

Defendant: Commission of the European Communities

Form of order sought

- annul the contested Commission decision or alter it in accordance with the matters set out more specifically below;
- order the Commission to pay the costs.

Pleas in law and main arguments

In its action challenging Commission Decision C(2006) 5993 final of 14 December 2006 (OJ 2006 L 355, p. 96) by which the Commission excluded from Community financing certain expenditure incurred by the Member States — in the present case the Hellenic Republic — in the context of clearing expenditure of the Guarantee Section of the European Agricultural Guidance and Guarantee Fund (EAGGF), the Hellenic Republic puts forward the following pleas for annulment.

By the first, general, plea of annulment, which relates to all the corrections, the applicant submits that the defendant infringed an essential procedural requirement which is laid down in subparagraph (a) [sic] of the third subparagraph of Article 8(1) of Regulation (EC) No 1663/95 (¹), in respect of the failure to conduct a bilateral discussion with the Greek authorities on the assessment of the gravity of the infringements attributed to

them and the loss suffered by the European Community, and, in the alternative, the Commission lacked power *ratione temporis* to impose corrections.

More specifically, in the olive oil sector, the applicant submits that the defendant exceeded the limits of the discretion enjoyed by it, because it doubled the correction from 5 % to 10 % although no worsening — but, on the contrary, an improvement — of the control system had been noted. Also, in the applicant's submission the defendant erred in its interpretation of Community provisions and in the assessment of the facts, infringing the principle of proportionality.

In relation to the cotton sector, the applicant puts forward as a plea for annulment incorrect assessment of the facts, incorrect reasoning, the lack of a legal basis for imposing the correction, the incorrect interpretation and application of Article 12(1) of Regulation (EEC) No 1201/89 (²) and infringement of the principle of legal certainty because the duration of the procedure for allocating expenditure exceeded 10 years.

In relation to the grape sector, the applicant puts forward the argument that the defendant misinterpreted the guidelines for corrections in setting the figure of 10 % for inadequate secondary controls, and that the defendant gave an inadequate statement of reasons for the decision as regards the correction for currants.

In relation to citrus fruit, the applicant submits that the defendant mistakenly relied upon, and did not provide a sufficient statement of reasons in respect of, the stated deficiencies in administrative controls, infringing the principle of proportionality; in the alternative it erred in its interpretation and temporal application of Annex 16 to document 17933/2000 with regard to the classification of the checks in question as basic.

Finally, with regard to the late payments, the applicant pleads that there was an incorrect assessment of the facts because of the imposition of a double correction in respect of budget item B01-1210-160, incorrect interpretation and application of Article 4(2) of Regulation (EC) No 296/96 (³) in relation to the basis for calculation of the 4 % reserve, and an incorrect assessment and insufficient statement of reasons so far as concerns the exceptional circumstances and special management conditions that were put forward.

(¹) Commission Regulation (EC) No 1663/95 of 7 July 1995 laying down detailed rules for the application of Council Regulation (EEC) No 729/70 regarding the procedure for the clearance of the accounts of the EAGGF Guarantee Section (OJ No L 158, 8.7.1995, p. 6).

(²) Commission Regulation (EEC) No 1201/89 of 3 May 1989 laying down rules implementing the system of aid for cotton (OJ No L 123, 4.5.1989, p. 23).

(³) Commission Regulation (EC) No 296/96 of 16 February 1996 on data to be forwarded by the Member States and the monthly booking of expenditure financed under the Guarantee Section of the Agricultural Guidance and Guarantee Fund (EAGGF) and repealing Regulation (EEC) No 2776/88 (OJ No L 39, 17.2.1996, p. 5).