

5. Fifth plea in law, alleging that the Institutions, by refusing to make an appropriate adjustment on account of a price premium associated with the certification of compliance with RED, have manifestly misstated the facts and violated Articles 3 (2) and 3 (3) of the basic Regulation because the applicant's export prices were not objectively compared with the Union industry's target price. In addition, by refusing to make the necessary adjustment for the RED certification, the Institutions impermissibly discriminated against the applicant as compared to other Indonesian producers.
6. Sixth plea in law, alleging that the Institutions breached Article 3(7) of the basic Regulation and committed a manifest error of assessment in finding that Double Counting Regulations did not contribute to the injury suffered by the Union industry.
7. Seventh plea in law, alleging that the Institutions have failed to consider information and arguments submitted by the applicant in the course of the investigation. By doing so, they have not only breached their obligation of due diligence and proper administration by not carefully and impartially examining all relevant evidence before them but also failed to comply with the obligation contained in Article 20 (5) of the basic Regulation as well as with the obligation to provide reasons as mandated by Article 296 TFEU.

Action brought on 21 February 2014 — Netherlands v Commission

(Case T-126/14)

(2014/C 112/78)

Language of the case: Dutch

Parties

Applicant: Kingdom of the Netherlands (represented by: M. Bulterman and J. Langer, acting as Agents)

Defendant: European Commission

Form of order sought

The applicant claims that the Court should:

- Primarily, annul Article 1 of the contested decision and the annex thereto, in so far as that provision and annex relate to interest, in the amount of EUR 4 703 231,78, which, it is alleged, the Netherlands wrongly failed to calculate in respect of a number of claims relating to the late payment of additional levies and unlawfully granted export refunds;
- In the alternative, annul Article 1 of the contested decision and the annex thereto, in so far as that provision and annex relate to interest, in the amount of EUR 3 208 935,04, which, it is alleged, the Netherlands wrongly failed to calculate in respect of a number of claims relating to the late payment of additional levies;
- Order the Commission to pay the costs.

Pleas in law and main arguments

The action seeks partial annulment of Commission Implementing Decision 2013/763/EU of 12 December 2013 on excluding from European Union financing certain expenditure incurred by the Member States under the Guarantee Section of the European Agricultural Guidance and Guarantee Fund (EAGGF), under the European Agricultural Guarantee Fund (EAGF) and under the European Agricultural Fund for Rural Development (EAFRD) (OJ 2013 L 338, p. 81).

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

1. First plea in law, alleging infringement of the principle that reasons must be given, by reason of the lack of coherent and comprehensible reasoning for the contested decision.

2. Second plea in law, alleging breach of Article 13(2) TEU by reason of the imposition of an adjustment in relation to interest rates without indication of a basis under European Union law for doing so, and/or misapplication of the principle of equivalence by reason of the assumption that the Netherlands, at the time of the relevant facts, had charged interest in connection with comparable domestic claims.
3. Third plea in law, alleging infringement of the principle of care, in conjunction with Article 8(2) of Regulation (EEC) No 729/70 ⁽¹⁾ and Article 5(2) of Regulation (EEC) No 595/91, ⁽²⁾ by reason of the failure to take a decision, prior to 16 October 2006, on outstanding claims.

⁽¹⁾ Regulation (EEC) No 729/70 of the Council of 21 April 1970 on the financing of the common agricultural policy (OJ, English Special Edition 1970(I), p. 218).

⁽²⁾ Council Regulation (EEC) No 595/91 of 4 March 1991 concerning irregularities and the recovery of sums wrongly paid in connection with the financing of the common agricultural policy and the organisation of an information system in this field and repealing Regulation (EEC) No 283/72 (OJ 1991 L 67, p. 11).
