

— order the 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. By the first plea, it is alleged that the imposition of a flat-rate correction in the amount of EUR 2 731 208,07 and the method of calculation used were contrary to Article 31(2) of Council Regulation (EC) No 1290/2005 of 21 June 2005 on the financing of the common agricultural policy (OJ 2005 L 209, p. 1), to the guidelines set out in Commission document No VI/5330/97 of 23 December 1997 (Guidelines for the calculation of financial consequences when preparing the decision regarding the clearance of the accounts of the EAGGF Guarantee Section), and to Commission document AGRI/2005/64043 (Commission Communication on how the Commission intends in the context of the EAGGF-Guarantee clearance procedure to handle shortcomings in the context of cross-compliance control systems implemented by Member States) in so far as it is inappropriate to apply a flat-rate assessment, since the applicant had provided a specific evaluation of the actual risks for the fund. The implementing measures adopted by the Commission were not only incorrect, but also disproportionate and unjustified.
2. By the second plea, it is alleged that the addition of a specific correction in the amount of EUR 191 873,55 to the general flat-rate correction of 2 %, and the method of calculation, are contrary to Article 31(2) of the Regulation No 1290/2005 and to the Commission documents on the guidelines for the calculation of financial corrections, because it is not appropriate to use two methods of calculation at the same time for the same infringement. To proceed in that way is not only legally incoherent but also disproportionate and unjustified.
3. By the third plea in law, it is alleged that the correction imposed for the 2010 application year, the 2011 financial year, infringes Article 31(4) of Regulation No 1290/2005; that it implies failure to observe the principle of sincere cooperation and infringes the rights of the defence, in so far as the defendant has unduly extended the financial correction to cover a period subsequent to the 24 months preceding the Communication, even though the shortcomings had already been rectified.

Action brought on 22 September 2014 — Spain v Commission

(Case T-676/14)

(2014/C 388/31)

Language of the case: Spanish

Parties

Applicant: Kingdom of Spain (represented by: A. Rubio González, Abogado del Estado)

Defendant: European Commission

Form of order sought

The applicant claims that the General Court should:

- annul Decision C(2014) 4856 final of 11 July 2014 on the launching of an investigation related to the manipulation of statistics in Spain as referred to in Regulation (EU) No 1173/2011 of the European Parliament and of the Council on the effective enforcement of budgetary surveillance in the euro area; and
- order the 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: failure to observe the principles of legal certainty and the non-retroactivity of legislation

- According to the applicant, the principles of legal certainty and non-retroactivity, as applied to Regulation (EU) No 1173/2011 of the European Parliament and of the Council of 16 November 2011 on the effective enforcement of budgetary surveillance in the euro area (OJ 2011 L 306, p. 1) and Decision 2012/678/EU, mean that facts arising before 13 December 2011 cannot be the subject of an investigation because, at that date, the facts at issue could not be penalised. The only data in respect of which a penalty could be applied are those notified in April 2012. In fact, the period covered by the investigation must relate only to data to be found in notifications made after 2012.

The period covered by the investigation must relate only to data in the notifications made after 2012 where those data relate to facts that occurred after December 2011, the date on which the Regulation No 1173/2011 entered into force. Consequently there is no legal basis for an investigation in relation to facts that occurred before 13 December 2011.

2. Second plea in law: infringement of Article 8(3) of Regulation (EU) No 1173/2011

- According to the applicant, there is no serious evidence of facts amounting to the manipulation of data relating to the Spanish deficit and public debt. In reviewing those data, the Spanish authorities gave clear and adequate explanations.

3. Third plea in law: infringement of the Kingdom of Spain's rights of defence

- According to the applicant, the investigation that has been launched is a covert investigation, conducted outside established procedures, in breach of the rights of defence of the Kingdom of Spain.

Action brought on 19 September 2014 — Airport Handling v Commission

(Case T-688/14)

(2014/C 388/32)

Language of the case: Italian

Parties

Applicant: Airport Handling SpA (Somma Lombardo, Italy) (represented by: R. Cafari Panico and F. Scarpellini, lawyers)

Defendant: European Commission

Form of order sought

The applicant claims that the Court should:

- annul, in its entirety, Decision C (2014) 4537 final of 9 July 2014 whereby the European Commission initiated a formal investigation procedure in Case SA.21420 (2014/NN) concerning the setting up of the company Airport Handling SpA ('the contested decision');
- in the alternative, in the unlikely event that the Court decides that only some of the complaints raised in the present action should be upheld, annul the contested decision in so far as it concerns those complaints;
- in any event, order the 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 and incorrect application of Article 107(1) TFEU and Article 108(2) TFEU.

- The applicant argues that the contested decision is vitiated by the fact that the European Commission wrongly held that Airport Handling SpA was SEA Handling's successor on the basis of a presumed economic connection between the two companies and, on the strength of that incorrect assumption, adopted the decision to initiate a formal investigation procedure.