

*Decision of the Board of Appeal: Appeal dismissed*

*Pleas in law:*

- Infringement of Article 7(1)(c) of Regulation No 207/2009;
- Infringement of Article 7(1)(b) of Regulation No 207/2009.

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**Action brought on 12 September 2014 — Slovenia v Commission**

**(Case T-667/14)**

(2014/C 395/71)

*Language of the case: Slovene*

**Parties**

*Applicant:* Republic of Slovenia (represented by L. Bembič, legal representative of the State)

*Defendant:* European Commission

**Form of order sought**

The applicant claims that the Court should:

- annul Commission implementing decision 2014/459/EU 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) (notified under document C(2014) 4479) (OJ L 205 of 12.7.2014, p. 62), insofar as it refers to the Republic of Slovenia, in particular as it relates to:
  - weakness in the verification of small parcels as regards conformity with the definition of agricultural parcels, for which reason a flat-rate correction of 5 % of direct payments was made in the sum of EUR 85 780,08 for the financial year 2010, of EUR 115 956,46 for the financial year 2011 and of EUR 131 269,23 for the financial year 2012;
  - non-extrapolation of control results when the difference was less than 3 %, for which reason an ad hoc correction of direct payments was made in the sum of EUR 1 771,90 for the financial year 2010, of EUR 6 376,67 for the financial year 2011 and of EUR 6 506,76 for the financial year 2012;
- order the Commission to pay the costs of the proceedings.

**Pleas in law and main arguments**

In support of its action, the applicant raises two pleas in law.

1. First plea, alleging a manifest error of assessment, failure to state reasons for the decision and breach of the principle of legality with regard to the Commission's findings as to weaknesses in checking small parcels and in defining agricultural parcels.

The applicant claims that the Commission erred in finding that the Slovene system allows farmers to add, in their declarations of parcels of land, the long thin strips of meadows that surround arable crops, in particular, so that the areas shown in the graphs of the parcels of agricultural land of a holding [grafične enote rabe zemljišča kmetijskega gospodarstva (GERK)] become eligible, which could give rise to inaccuracy in measurements and so to the acceptance of parcels of less than the minimum size for an agricultural parcel in accordance with Article 14(4) of Regulation No 796/2004<sup>(1)</sup> and Article 13(9) of Regulation No 1122/2009.<sup>(2)</sup>

2. Second plea, alleging failure to state the reasons for the decision and breach of the principle of legality, with reference to the Commission's findings relating to failure to fulfil the obligation to extrapolate.

According to the applicant, the Commission erred when it found that, in the Republic of Slovenia, the agricultural parcels selected for checks were chosen at random, and to the extent of at least 50 %, that the method of selecting GERKs did not make it possible to achieve representativity or reliability as required by Regulation No 1122/2009, and that there had been a breach of the obligation to extrapolate for the purpose of recital 44 in the preamble to that regulation.

- (<sup>1</sup>) Commission Regulation (EC) No 796/2004 of 21 April 2004 laying down detailed rules for the implementation of cross-compliance, modulation and the integrated administration and control system provided for in of Council Regulation (EC) No 1782/2003 establishing common rules for direct support schemes under the common agricultural policy and establishing certain support schemes for farmers (OJ 2004 L 141, p. 18).
- (<sup>2</sup>) Commission Regulation (EC) No 1122/2009 of 30 November 2009 laying down detailed rules for the implementation of Council Regulation (EC) No 73/2009 as regards cross-compliance, modulation and the integrated administration and control system, under the direct support schemes for farmers provided for that Regulation, as well as for the implementation of Council Regulation (EC) No 1234/2007 as regards cross-compliance under the support scheme provided for the wine sector (OJ 2009 L 316, p. 65).

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### Action brought on 19 September 2014 — Biogaran v Commission

(Case T-677/14)

(2014/C 395/72)

*Language of the case: French*

#### Parties

*Applicant:* Biogaran (Colombes, France) (represented by: T. Reymond, lawyer)

*Defendant:* European Commission

#### Form of order sought

The applicant claims that the Court should:

- annul Articles 1, 7 and 8 of Commission Decision C(2014) 4955 final of 9 July 2014 relating to a proceeding under Articles 101 and 102 of the Treaty on the Functioning of the European Union (AT.39612-Perindopril (SERVIER)) so far as they relate to Biogaran;
- in the alternative, make use of its unlimited jurisdiction in order to reduce very substantially the fine imposed on Biogaran by Article 7 of that decision;
- grant Biogaran the benefit of any annulment, in whole or in part, of Commission Decision C(2014) 4955 final of 9 July 2014 in the action brought by the companies Servier S.A.S, Les Laboratoires Servier and Servier Laboratories Limited, and draw all appropriate conclusions therefrom in the exercise of its unlimited jurisdiction;
- order the European Commission to pay all the costs.

#### Pleas in law and arguments

The applicant puts forward three pleas in law in support of its action.

1. First plea, alleging an error of law in the contested decision, in that it does not show that the applicant participated in any infringement whatever of the competition rules.