

3. Third plea in law, in the further alternative, alleging failure to take full account of the rules set out in Annex 2 Annex 2 to Document VI/5330/97 ⁽³⁾ and Communication AGRI/60637/2006 ⁽⁴⁾ since the Commission applied a lump-sum correction plus 10 % on the basis that the failure for which the French authorities were criticised in counting the animals was recurrent.

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- ⁽¹⁾ Commission Regulation (EU) No 65/2011 of 27 January 2011 laying down detailed rules for the implementation of Council Regulation (EC) No 1698/2005, as regards the implementation of control procedures as well as cross-compliance in respect of rural development support measures (OJ 2011 L 25, p. 8).
- ⁽²⁾ Commission Regulation (EC) No 885/2006 of 21 June 2006 laying down detailed rules for the application of Council Regulation (EC) No 1290/2005 as regards the accreditation of paying agencies and other bodies and the clearance of the accounts of the EAGF and of the EAFRD (OJ 2006 L 171, p. 90).
- ⁽³⁾ Commission Document No VI/5330/97 of 23 December 1997 on guidelines for the calculation of financial consequences when preparing the decision regarding the clearance of the accounts of EAGGF Guarantee.
- ⁽⁴⁾ Commission Communication No AGRI/60637/2006 final on the calculation of the Commission of financial consequences when clearing EAGGF accounts, repeated shortcomings in safeguards.

Appeal brought on 7 September 2015 by Filip Mikulik against the judgment of the Civil Service Tribunal of 25 June 2015 in Case F-67/14, Mikulik v Council

(Case T-520/15 P)

(2015/C 354/62)

Language of the case: French

Parties

Appellant: Filip Mikulik (Prague, Czech Republic) (represented by: M. Velardo, lawyer)

Other party to the proceedings: Council of the European Union

Form of order sought by the appellant

The appellant claims that the Court should:

- set aside the judgment of 25 June 2015 in Case F-67/14, *Filip Mikulik v Council of the European Union* and itself give judgment in the matter;
- in the alternative, refer the case back to the Civil Service Tribunal;
- order the Council to pay the costs of the proceedings before the Civil Service Tribunal and the General Court.

Pleas in law and main arguments

In support of the appeal, the appellant relies on eight pleas in law.

1. First plea in law, alleging an infringement of EU law and of overarching principles of law such as the principle of good administration and principle of equal treatment, in so far as the General instructions on the preparation of staff reports, concerning the general implementing provisions on reports, are not applicable by analogy to the procedure for appraising the performance of a probationary official at the time of his establishment.
2. Second plea in law, alleging a distortion of the facts and of the evidence, as the Civil Service Tribunal ('the CST') considered that the third company whose consultant was involved in the process of evaluating the official had not seen his position consolidate within the Council.
3. Third plea in law, alleging an infringement of EU law and in particular of the case-law concerning Article 34 of the Staff Regulations of Officials of the European Union ('the Staff Regulations') and of the duty of care, as the CST found that the probationary period and the appraisal had taken place under normal conditions, although the applicant had been supervised and evaluated by external consultants and did not have the benefit of mentoring.

4. Fourth plea in law, alleging breach of the principle of equal treatment, in so far as the Council did not apply in the present case the rules concerning mentoring set out in the internal guidelines.
5. Fifth plea in law, alleging a distortion of the facts and of the evidence, as the CST considered that mentoring and micromanagement were not two separate concepts on the basis of the internal guidelines.
6. Sixth plea in law, alleging an infringement of EU law and in particular of Article 34 of the Staff Regulations, as the CST found that the failure to send the first opinion to the line management was not contrary to that article.
7. Seventh plea in law, alleging a distortion of the facts and of the evidence, as the CST did not check if the opinion of the Reports Committee had been communicated to the line management on time.
8. Eighth plea in law, alleging an infringement of Article 34 of the Staff Regulations, as the CST found that it could not assume the role of the institution in the appraisal of the applicant's performance.

Action brought on 10 September 2015 — CCPL and Others v Commission

(Case T-522/15)

(2015/C 354/63)

Language of the case: Italian

Parties

Applicants: CCPL — Consorzio Cooperative di Produzione e Lavoro SC (Reggio Emilia, Italy), Coopbox group SpA (Reggio Emilia, Italy), Poliemme Srl (Reggio Emilia, Italy), Coopbox Hispania, SL (Lorca, Spain), Coopbox Eastern s.r.o. (Nové Mesto nad Váhom, Slovakia) (represented by: S. Bariatti and E. Cucchiara, lawyers)

Defendant: European Commission

Form of order sought

The applicants claim that the Court should:

- annul the fine imposed on the applicants; or
- in the alternative, reduce the amount of that fine; and, in any event
- order the Commission to pay the costs.

Pleas in law and main arguments

The present action is brought against Commission Decision No C(2015) 4336 final of 24 June 2015 in Case AT.39563 — Retail food packaging, concerning the infringement of Article 101 of the Treaty on the Functioning of the European Union.

In support of that action, the applicants rely on five pleas in law.

1. First plea in law, alleging misuse of powers on the grounds of failure to investigate adequately and to state reasons concerning the effects of the infringement.
 - The applicants claim in that respect that the conduct at issue has not taken place in practice, as is clear from the documents relating to the investigation and as even the Commission acknowledged in the contested decision. That situation should have been duly taken into consideration in the overall assessment of the severity of the infringements and, accordingly, when determining the applicable fines. However, that aspect is not taken into consideration in the contested decision. Nor are any reasons given in that regard.