

4. The fourth plea in support of annulment is raised with respect to the imposition of flat-rate corrections for weaknesses in on-the-spot inspections and, specifically, with respect to the 2 % correction as regards the ineffectiveness of risk analysis for the 2010 claim year, based on the misinterpretation and misapplication of Article 31(2) of Regulation No 1122/2009 ⁽⁴⁾ and of Article 27 of Regulation No 796/2004 — breach of the principle of protection of legitimate expectations.

Further, with regard to the remaining contested heads of the Commission's Implementing Decision the following two pleas in law in support of annulment are relied on:

5. The fifth plea in support of annulment relates to the financial correction at a flat-rate 2 % which is imposed in the context of the cross-compliance scheme for the 2011 claim year, based on the misinterpretation and misapplication of Article 11 of Regulation No 885/2006 ⁽⁵⁾ and of Article 31 of Regulation No 1290/2005 ⁽⁶⁾ — insufficient statement of reasons — errors as to the facts, with respect to the 2 % flat-rate correction for the 2011 claim year.
6. The sixth plea in support of annulment concerns the amount which is to be reimbursed to the Hellenic Republic in implementation of the judgment of the General Court of 6 November 2014 in Case T-632/11, based on infringement of Articles 266 and 280 TFEU in relation to the Commission's duty to take measures to ensure that the judgment of the General Court is complied with, and no reasons are stated for the failure to reimburse the sum of EUR 10 460 620,42 to the Hellenic Republic, following the judgment of the General Court in Case T-632/11.

⁽¹⁾ OJ 2015 L 182, p. 39.

⁽²⁾ 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 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).

⁽³⁾ Commission Regulation (EC) No 1120/2009 of 29 October 2009 laying down detailed rules for the implementation of the single payment scheme provided for in Title III of Council Regulation (EC) No 73/2009 establishing common rules for direct support schemes for farmers under the common agricultural policy and establishing certain support schemes for farmers (OJ 2009 L 316, p. 1).

⁽⁴⁾ 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).

⁽⁵⁾ 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).

⁽⁶⁾ Council Regulation (EC) No 1290/2005 of 21 June 2005 on the financing of the common agricultural policy (OJ 2005 L 209, p. 1).

Action brought on 2 September 2015 — Republic of Lithuania v European Commission

(Case T-508/15)

(2015/C 371/32)

Language of the case: Lithuanian

Parties

Applicant: Republic of Lithuania (represented by: D. Kriauciūnas, R. Krasuckaitė, M. Palionis and A. Petrauskaitė, Agents)

Defendant: European Commission

Form of order sought

The applicant claims that the Court should:

- annul European Commission Implementing Decision (EU) 2015/1119 of 22 June 2015 excluding from European Union financing certain expenditure incurred by the Member States under the European Agricultural Guarantee Fund (EAGF) and under the European Agricultural Fund for Rural Development (EAFRD), in so far as it is addressed to the Republic of Lithuania and relates to the Scheme for early retirement from agricultural commodities production (budget item: 6711);
- order the European Commission to pay the costs.

Pleas in law and main arguments

In support of the action, the applicant relies on one plea in law, alleging infringement of EU law:

By adopting the contested decision, the Commission infringed Article 52(2) of Regulation (EU) No 1306/2013⁽¹⁾ in conjunction with the principle of proportionality, because:

- (1) Without taking into account the nature of the infringement and the financial damage caused to the European Union, the Commission applied a flat-rate correction, although the information presented following the *ex-post* verification of all applications, carried out by Lithuania in an appropriate and reasonable manner, made it possible to determine with precision the financial damage actually caused to the European Union. The Government of the Republic of Lithuania asserts that the *ex-post* verifications carried out by the Lithuanian authorities are an appropriate means of determining the actual damage to the funds, because:
 - the criteria chosen for the verifications are consistent with the concept of agricultural commodities production;
 - the Commission wrongly linked the concept of agricultural commodities production with the concept of semi-subsistence farms;
 - the Commission failed to take into account the objectives of the Republic of Lithuania and the measures which were set out clearly in the rural development programme documents.
- (2) In any event, the Commission misapplied the excessive 5 % financial correction, since the application of that correction is provided for solely when the risk of loss to the EU budget is significant, whereas the verifications carried out and the information presented by the Republic of Lithuania proved that only a small financial risk to the EU budget could have arisen.

⁽¹⁾ Regulation (EU) No 1306/2013 of the European Parliament and of the Council of 17 December 2013 on the financing, management and monitoring of the common agricultural policy and repealing Council Regulations (EEC) No 352/78, (EC) No 165/94, (EC) No 2799/98, (EC) No 814/2000, (EC) No 1290/2005 and (EC) No 485/2008 (OJ 2013 L 347, p. 549).