

Form of order sought

The applicant claims that the Court should:

- annul the contested decision;
- order OHIM to pay the costs, including the costs incurred in the course of the appeal proceedings.

Plea in law

- Infringement of 7(1)(b) of Regulation No 207/2009 in conjunction with Article 7(2) of that regulation.

Action brought on 26 January 2016 — Germany v Commission**(Case T-28/16)**

(2016/C 098/72)

*Language of the case: German***Parties**

Applicant: Federal Republic of Germany (represented by: T. Henze and A. Lippstreu, acting as Agents)

Defendant: European Commission

Form of order sought

The applicant claims that the Court should:

- annul Article 1 and the annex to Commission Implementing Decision (EU) 2015/2098 of 13 November 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 the payments incurred by the competent authorities of the Federal Republic of Germany under the EAFRD in the total amount of EUR 7 719 920,30 are excluded from EU financing;
- order the defendant to pay the costs.

Pleas in law and main arguments

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

1. First plea in law: Infringement of Article 71(2) read in conjunction with Article 2(e) of Regulation (EC) No 1698/2005, ⁽¹⁾ in so far as the Commission required selection criteria to be applied not only to a concrete 'operation' within the meaning of Article 2(e) of Regulation No 1698/2005, but also to preliminary phases of the national land reorganisation and village renewal procedures, and in so far as the Commission misconstrued the conditions applicable to selection criteria.
2. Second plea in law: Infringement of the partnership principle set out in Article 6 of Regulation (EC) No 1698/2005, the principle of sincere cooperation (the first paragraph of Article 4(3) TEU) and the principle that legitimate expectations be protected, in so far as the Commission based its corrective decision on an approach that the Commission itself had approved or had not called into question.
3. Third plea in law: Infringement of the principle of subsidiarity (Article 5 TEU), in so far as the Commission encroached upon the procedural autonomy and the planning prerogatives of the Member States.

4. Fourth plea in law: Infringement of Article 52(2) of Regulation (EU) No 1306/2013, ⁽²⁾ of Article 31(2) of Regulation No 1290/2005 ⁽³⁾ and of the principle of proportionality, since, by a flat-rate correction of 10 %, the Commission did not have due regard to the nature and, in any event, limited extent of a potential infringement in connection with the selection criteria and did not take into account the circumstance that the European Union did not suffer any actual financial loss nor was there ever any real risk that it would suffer loss.

⁽¹⁾ Council Regulation (EC) No 1698/2005 of 20 September 2005 on support for rural development by the European Agricultural Fund for Rural Development (EAFRD) (OJ 2005 L 277, p. 1).

⁽²⁾ 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).

⁽³⁾ 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 25 January 2016 — Czech Republic v Commission

(Case T-32/16)

(2016/C 098/73)

Language of the case: Czech

Parties

Applicant: Czech Republic (represented by: M. Smolek and J. Vláčil, acting as Agents)

Defendant: European Commission

Form of order sought

- annul Commission Implementing Decision (EU) 2015/2098 of 13 November 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 excludes expenditure of a total of EUR 584 299,25 incurred by the Czech Republic,
- order the European Commission to pay the costs.

Pleas in law and main arguments

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

1. First plea in law, alleging infringement of Article 52(1) of 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.
 - The Commission decided to exclude the expenditure from EU financing although there was no breach of EU or national law. It wrongly assumed that the application of a lower maximum age in the case of support for early retirement required a change of a rural development programme within the meaning of Article 19 of Council Regulation (EC) No 1698/2005 of 20 September 2005 on support for rural development by the European Agricultural Fund for Rural Development.
2. Should the Court not uphold the first plea in law, the applicant puts forward a second plea in law, alleging infringement of Article 52(2) of Regulation No 1306/2013.