

B — With regard to 2011:

1. Infringement of the principle of sincere cooperation, in that the Commission, in relation to the defects in the functioning of the LPIS/GIS for 2011, undervalued all the work carried out by the Portuguese authorities, in particular, the measures which they adopted, such as the Action Plan, validated by the certification body and implemented with specific reference to 2011, with the consent and knowledge of the Commission.
2. Infringement of the principle of *audi alteram partem*, in that the notification under Article 11 of Regulation (EC) No 885/06 <sup>(2)</sup> relating to 2011, states that the subject matter of the enquiry concerns the irregularities found in the LPIS, but the decision is based on the unlawful consolidation of entitlements, a subject which is not mentioned in the letter, as is required under Article 11, and as such, the Portuguese authorities did not have the opportunity to express their views.
3. Infringement of Article 11 of Regulation (EC) No 885/06, in that the decision is not properly reasoned, because its grounds/reasoning are inaccurate, and as such, it infringes Article 11(1) of Regulation No 885/06.

C — Increase/Flat-rate correction rates — For 2009 to 2011

Infringement of Article 31(2) of Regulation No 1290/2005 <sup>(3)</sup> and of the principle of proportionality, and the punitive nature of AGRI/61 495/2002- REV1, in that the measures adopted (see decisions) are not appropriate or necessary for the aim pursued and go beyond what is necessary to achieve that purpose, since the Portuguese authorities make the calculation in accordance with the Commission's guidelines and after the Commission decides to apply a flat-rate correction.

<sup>(1)</sup> Decision of 22 June 2015 excluding from financing certain expenditure incurred by the Member States under the Guarantee Section of the European Agricultural Guidance and Guarantee Fund (EAGGF), the European Agricultural Guarantee Fund (EAGF) and the European Agricultural Fund for Rural Development (EAFRD) (OJ 2015 L 182, p. 39).

<sup>(2)</sup> Commission Regulation (EC) No 885/06 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).

<sup>(3)</sup> Council Regulation (EC) No 1290/2005 of 21 June 2005 on the financing of the common agricultural policy (OJ 2005 L 209, p. 1).

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**Action brought on 25 September 2015 — Spliethoff's Bevrachtingskantoor/Commission**

**(Case T-564/15)**

(2015/C 398/79)

*Language of the case: English*

**Parties**

*Applicant:* Spliethoff's Bevrachtingskantoor BV (Amsterdam, Netherlands) (represented by: P. Glazener, lawyer)

*Defendant:* European Commission

**Form of order sought**

The applicant claims that the Court should:

- annul the Commission's decision of 17 July 2015 rejecting the applicant's proposal in response to the call for proposals in the context of the Commission Implementing decision C(2014)1921 final of 26 March 2014 establishing a multi-Annual Work Programme 2014 for financial assistance in the field of Connecting Europe Facility;
- order the Commission to take a new decision with respect to the applicant's proposal, taking account of the judgment of the General Court, within three months from the date of the judgment;
- order the Commission to pay the costs of the proceedings.

**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 a manifest error of assessment

- The assessment of the applicant's proposal is incorrect as regards the award criteria of relevance, impact and quality. With a proper evaluation against those award criteria, the proposal should have been selected for EU co-funding.

2. Second plea in law, alleging an infringement of the principle of equal treatment

- The Commission has infringed the principle of equal treatment in the contested decision because it has not selected the applicant's proposal, while it has selected other, similar proposals related to emission abatement technologies.

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**Action brought on 28 September 2015 — Excalibur City v OHIM — Ferrero (MERLIN'S KINDERWELT)**

**(Case T-565/15)**

(2015/C 398/80)

*Language in which the application was lodged: English*

**Parties**

*Applicant:* Excalibur City s.r.o. (Znojmo, Czech Republic) (represented by: E. EnginDeniz, lawyer)

*Defendant:* Office for Harmonisation in the Internal Market (Trade Marks and Designs) (OHIM)

*Other party to the proceedings before the Board of Appeal:* Ferrero SpA (Alba, Italy)