Action brought on 31 August 2016 — Czech Republic v Commission

(Case T-627/16)

(2016/C 392/61)

Language of the case: Czech

Parties

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

Defendant: European Commission

Form of order sought

— annul Commission Implementing Decision (EU) 2016/1059 of 20 June 2016 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) (notified under document C(2016) 3753) ('the contested decision') in so far as it excludes expenditure incurred by the Czech Republic in connection with the single area payment (SAPS) in a total amount of EUR 84 272,83, in so far as it excludes expenditure incurred by the Czech Republic in connection with investment in the wine sector in a total amount of EUR 636 516,20, and in so far as it excludes expenditure incurred by the Czech Republic in connection with cross-compliance conditions in a total amount of EUR 29 485 612,55;

— order the Commission to pay the costs.

Pleas in law and main arguments

In support of the action, the applicant relies in relation to the single area payment scheme (SAPS) on a single plea in law, alleging breach 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 expenditure from EU financing, although there had been no breach of EU or national law.

In relation to investment in the wine sector, the applicant relies on a single plea in law, alleging breach of Article 52(1) of Regulation No 1306/2013. The Commission decided to exclude expenditure from EU financing, although there had been no breach of EU or national law.

In relation to cross-compliance conditions, the applicant relies on two pleas in law:

— The first plea in law alleges breach of Article 52(1) of Regulation No 1306/2013. The Commission decided to exclude expenditure from EU financing, although there had been no breach of EU or national law.

— In the alternative, the applicant relies on the second plea in law, alleging breach of Article 52(2) of Regulation No 1306/2013. Even if the complaints contested in the first plea in law constituted a breach of EU law (quod non), the Commission incorrectly assessed the seriousness of that breach and the financial damage to the EU.

Action brought on 2 September 2016 — Remag Metallhandel and Jaschinsky v Commission

(Case T-631/16)

(2016/C 392/62)

Language of the case: English

Parties

Applicants: Remag Metallhandel GmbH (Steyr, Austria) and Werner Jaschinsky (St. Ulrich bei Steyr, Austria) (represented by: M. Lux, lawyer)

Defendant: European Commission

Form of order sought

The applicants claim that, given OLAF's request and subsequent insistence that the authorities of the Member States recover anti-dumping duties for all consignments of silicon metal exported from Taiwan to the EU in accordance with Council Regulation (EC) No 398/2004 of 2 March 2004 imposing a definitive anti-dumping duty on imports of silicon originating in the People's Republic of China (OJ 2004 L 66) and Council Implementing Regulation (EU) No 467/2010 of 25 May 2010 imposing a definitive anti-dumping duty on imports of silicon originating in the People's Republic of China, as extended to imports of silicon consigned from the Republic of Korea, whether declared as originating in the Republic of Korea or not (OJ 2010 L131), although no or insufficient proof has been provided by OLAF that the silicon imported by Remag from Taiwan is of Chinese origin, the Court should:

— order the defendant to pay damages to the applicants as specified in the application, together with default interest at the rate of 8 % annually, and

— order that the costs of the proceedings before Court be borne by the defendant.

Pleas in law and main arguments

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

1. First plea in law, alleging that by requesting Member States to recover anti-dumping duties before the investigation had confirmed the origin of the goods in order to avoid the allegedly owed duties from becoming time-barred, OLAF instructed and incited national administrations to infringe Articles 220(1) and 221(1) of the Community Customs Code (CCC).

2. Second plea in law, alleging that by disregarding in its recovery request the fact that a transhipment of silicon from China does not prove that the silicon is of Chines origin, OLAF infringed the principle of sound administration and the obligation to base its conclusions on substantiated evidence.

3. Third plea in law, alleging that by claiming that all exports of silicon from Taiwan concerned good originating in China, OLAF disregarded the burden of proof for non-preferential origin.

4. Fourth plea in law, alleging that by claiming that the processing taking place in Taiwan was insufficient for conferring Taiwanese origin without taking into account the use of the processed silicon, OLAF disregarded the rules of origin as interpreted by the European Court of Justice.

5. Fifth plea in law, alleging a violation of the applicant's rights of defence.

Action brought on 7 September 2016 — Deichmann v EUIPO — Vans (Representation of a bar on the side of a shoe)

(Case T-638/16)

(2016/C 392/63)

Language in which the application was lodged: German

Parties

Applicant: Deichmann SE (Essen, Germany) (represented by: C. Onken, lawyer)

Defendant: European Union Intellectual Property Office (EUIPO)

Other party to the proceedings before the Board of Appeal: Vans, Inc. (Cypress, California, United States of America)