



**Action brought on 12 August 2024 – Portugal v Commission**

**(Case T-428/24)**

(C/2024/6102)

*Language of the case: Portuguese*

**Parties**

*Applicant:* Portuguese Republic (represented by: P. Barros da Costa, L. Medeiros, N. Domingues and G. Gomes, acting as Agents)

*Defendant:* European Commission

**Form of order sought**

The applicant claims that the Court should:

- annul Commission Implementing Decision (EU) 2024/1690 of 12 June 2024 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), relating to Enquiry Nos NACR/2021/002/PT and NAC/2021/009/PT, in so far as it excludes from financing the amount of EUR 2 914 440,05 (2018 to 2021 claim years), relating to expenditure declared by the Portuguese Republic under the 'animals' measures of the voluntary coupled support provided for in Chapter 1 of Title IV of Regulation (EU) No 1307/2013 of the European Parliament and of the Council of 17 December 2013,
- order the European Commission to pay the costs.

**Pleas in law and main arguments**

The applicant considers that the decision is invalid and relies on two pleas in law.

1. First plea in law, alleging an error of law, on the part of the European Commission in the incorrect interpretation and application of Article 30 of Commission Delegated Regulation No 640/2014, in particular as regards fulfilment of the eligibility criteria in conjunction with the retention period, by concluding that the eligibility criterion of the retention period is not met when an animal enters a holding after the start of that retention period, as defined by the Portuguese authorities, pursuant to Article 53 of Commission Delegated Regulation (EU) No 639/2014 of 11 March 2014, since Article 30 of this Regulation allows replacements and does not require that the animal is only eligible for replacement if it is present on a beneficiary's holding throughout the retention period.
2. Second plea in law, alleging error in the presumptions of fact and law, in so far as the Commission considers that the control sample in Portugal was affected by significant non-compliances in the 2017 and 2018 claim years, and was not increased in the subsequent 2018 and 2019 claim years, contrary to what is recommended in the DG AGRI guidelines contained in the working document with reference DS/CDP/2015/02 (concerning 'areas'), because, on the one hand, the very nature of the measures in question ('areas' versus 'animals') is sufficiently different in the type and degree of error and/or non-compliance that can be detected, making it unfeasible to apply *mutatis mutantis* what is defined in that working document (WD) DS/CDP/2015/02, and, secondly, because the Portuguese government has a margin of discretion, conferred on it by Article 35 of Commission Regulation (EU) No 809/2014 of 17 July 2014, which allows it to ensure, within that margin, an appropriate increase in the rate of on-the-spot checks, and to that end it has presented the methodology it used for that increase in the rate of checks for the implementation of the measures.