



C/2024/7134

9.12.2024

Judgment of the Court (Third Chamber) of 17 October 2024 (request for a preliminary ruling from the Curtea de Apel Cluj – Romania) – SC AA SRL v MFE

(Case C-701/22, ⁽¹⁾ MFE)

(Reference for a preliminary ruling – European Regional Development Fund (ERDF) – Regulation (EC) No 1083/2006 – Article 60 – Principle of sound financial management – Article 80 – Right of beneficiaries to receive payments as soon as possible and in full – Right to obtain interest for late payment – Principles of effectiveness and equivalence – Termination of an ERDF financing contract on account of irregularities in its performance – Annulment of that termination – Correction of the irregularities – Combating late payment in commercial transactions – Directive 2011/7/EU – Scope)

(C/2024/7134)

Language of the case: Romanian

Referring court

Curtea de Apel Cluj

Parties to the main proceedings

Applicant: SC AA SRL

Defendant: Ministerul Fondurilor Europene

Operative part of the judgment

1. The principle of sound financial management referred to in Article 60 of Council Regulation (EC) No 1083/2006 of 11 July 2006 laying down general provisions on the European Regional Development Fund, the European Social Fund and the Cohesion Fund and repealing Regulation (EC) No 1260/1999, must be interpreted as not precluding the payment of default interest on account of late payment by the managing authority of sums of money corresponding to eligible expenditure under the European Regional Development Fund.

By contrast, the principle of effectiveness must be interpreted, in the light of Article 80 of Regulation No 1083/2006 as meaning that it precludes the payment of that interest from being excluded pursuant to provisions of national law which require the payment of default interest only from the expiry of the period for repayment of the amount unduly paid.

2. The combined provisions of point 7 of Article 2 and Article 98(1) and (2) of Regulation No 1083/2006 must be interpreted as meaning that they do not preclude a national court from reducing, as a result of 'irregularities', within the meaning of point 7 of Article 2 of Regulation No 1083/2006, detected in the performance of a financing contract and in accordance with the principle of proportionality, the amount of default interest owed to the beneficiary of European Regional Development Fund financing by reason of late payment, by the managing authority, of expenditure eligible under that financing, in a case where that managing authority has not applied any financial correction in that regard.
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3. Directive 2011/7/EU of the European Parliament and of the Council of 16 February 2011 on combating late payment in commercial transactions must be interpreted as meaning that it is not applicable to a financing contract concluded between a managing authority of a Member State and an undertaking the purpose of which is the co-financing, by the European Regional Development Fund, of a project for the purchase of equipment from a third party by that underta

⁽¹⁾ OJ C 94, 13.3.2023.