

Joined Cases 89 and 91/86

L'Etoile commerciale and Comptoir national technique agricole (CNTA)

v

Commission of the European Communities

(Subsidy for oil seeds — Admissibility)

Report for the Hearing	3006
Opinion of Mr Advocate General da Cruz Vilaça delivered on 17 March 1987	3012
Judgment of the Court (Fifth Chamber), 7 July 1987	3021

Summary of the Judgment

- 1. Application for a declaration that a measure is void — National or legal persons — Measures of direct and individual concern to them — Commission decision refusing to charge to the EAGGF a subsidy improperly granted by the national authorities — Action by the recipient of the subsidy who was obliged to repay it to the national authorities — Inadmissibility (EEC Treaty, second paragraph of Art. 173)*
- 2. Action for compensation — Purpose — Claim for compensation based on the allegation that a decision adopted by a national agency in implementation of Community legislation is unlawful — Jurisdiction of the Court — Conditions — Attributability to a Community institution of the alleged unlawful conduct (EEC Treaty, Art. 178 and second paragraph of Art. 215; Regulation No 729/70 of the Council)*

1. A Commission decision addressed to a Member State, refusing to recognize as chargeable to the EAGGF subsidies which were improperly granted by the national authorities to a trader is not of direct and individual concern to that

trader within the meaning of the second paragraph of Article 173 of the Treaty. The fact that that decision may have prompted the national authorities to recover the sums improperly granted, as they had reserved the right to do as a

precaution against such an eventuality, is irrelevant.

2. The combined provisions of Articles 178 and 215 of the Treaty give jurisdiction to the Court only to award compensation for damage caused by the Community institutions or by their servants in the performance of their duties or, in other words, for damage capable of giving rise to non-contractual liability on the part of the Community. Damage caused by national institutions, on the other hand, can give rise to liability only on the part of those institutions and the national courts retain sole jurisdiction to order compensation for such damage.

Where the contested decision was adopted by a national body acting in order to ensure the implementation of Community rules it is necessary, in order to establish the jurisdiction of the Court, to determine whether the unlawful conduct alleged in support of the claim for compensation is in fact the responsibility of a Community institution. That is not the case where a national agency, following a Commission decision on the clearance of EAGGF accounts, decides on its own initiative to recover the improperly granted subsidies, in fulfilment of the general obligation imposed upon it by Regulation No 729/70 on the financing of the common agricultural policy.

REPORT FOR THE HEARING delivered in Joined Cases 89 and 91/86 *

I — Summary of the facts

1. Article 27 (1) of Regulation No 136/66/EEC of the Council of 22 September 1966 on the establishment of a common organization of the market in oils and fats (Official Journal, English Special Edition 1965-66, p. 221) provides for a subsidy to be granted for oil seeds harvested and processed within the Community.

The principles governing the grant of that subsidy, which involves control of the

processing of seeds at the oil mill, and the detailed rules relating to that control, for which a Community subsidy certificate is provided, were laid down at the material time in Regulation (EEC) No 2114/71 of the Council of 28 September 1971 on the subsidy for oil seeds (Official Journal, English Special Edition 1971 (III), p. 826).

In implementation of that regulation, the Commission adopted Regulation (EEC) No 1204/72 of 7 June 1972 laying down detailed rules for the application of the subsidy system for oil seeds (Official Journal, English Special Edition 1972 (II), p. 493), pursuant to which control is to be

* Language of the Case: French.