

Pleas in law and main arguments

The applicant first of all worked in the Commission as a seconded national expert from 1 May 1998 to 30 April 2001, then as a member of the temporary staff under a contract which expired on 30 April 2004.

From October 2003 the applicant took steps to obtain a new contract as a member of the temporary staff with effect from 1 May 2004. She claims that she was offered a post in the Investigatory and Disciplinary Office but that finally she was not recruited by reason of fault on the part of the Commission's staff. She alleges that DG ADMIN refused to recruit her on the basis that she had already served the maximum period of six years. According to the applicant that interpretation is erroneous as her first three years in the Commission as a seconded national expert should not have been taken into account. She submits that the administration finally admitted its error but, in the meantime, the post which had been offered to her had already disappeared as a result of restructuring.

By her action, the applicant seeks compensation for the damage she allegedly suffered. She alleges a breach of the general principles of legitimate expectations, legal certainty, good faith, the duty to state reasons, transparency, 'patere legem quam ipse fecisti legem', sound administration, the right to be heard, the duty to have regard to the interests of the official and the interests of the service.

Action brought on 13 September 2005 — Hellenic Republic v Commission

(Case T-344/05)

(2005/C 281/56)

Language of the case: Greek

Parties:

Applicant(s): Hellenic Republic (represented by: Ioannis Khalkias, Eleni Svolopoulou)

Defendant(s): Commission of the European Communities

Form of order sought

The applicant(s) claim(s) that the Court should:

- annul or amend the contested decision of the Commission of 15 July 2005 refusing the request for Community financing of certain expenditure incurred by the Member States under the European Agricultural and Guidance Fund (EAGGF), Guarantee Section; ⁽¹⁾
- order the Commission to pay the costs.

Pleas in law and main arguments

By the contested decision the Commission, in clearing the accounts under Regulation (EEC) No 729/70, ⁽²⁾ excluded from Community financing various expenditure incurred by the Hellenic Republic in the animal premia — extensification, fruit and vegetables and arable crops sectors.

The applicant seeks annulment of that decision, maintaining in principle that the entire clearance of accounts procedure is invalid because Article 7 of Regulation No 1258/1999, ⁽³⁾ in conjunction with Article 8 of Regulation No 1663/1995, ⁽⁴⁾ was infringed by reason of the fact that the consultation and bilateral contacts between the applicant and the Commission did not include the specific evaluation of the expenditure to be refused, while in addition the expenditure excluded was effected prior to the 24 months preceding the Commission's written communication. According to the applicant, the period of 24 months commences much later than the Commission considers.

As regards the correction of 100 % in respect of the premium for extensification, the applicant disputes the Commission's assessment of the factual circumstances and claims that it erred as to the facts and gave an inadequate statement of reasons for the contested decision. The applicant considers, moreover, that the imposition of a correction at the rate of 100 % contravenes the guidelines in Commission document VI/5330/97/23.12.97, is unjustified and clearly disproportionate, and goes beyond the bounds of proper use of the Commission's discretion.

As regards the correction in the arable crops sector, the applicant disputes the Commission's finding that there was an infringement of Regulation No 3508/1992, ⁽⁵⁾ in connection with the identification of agricultural parcels. It also considers that it complied fully with the conditions in Article 15 of Regulation No 2419/2001 ⁽⁶⁾ as regards administrative and on-the-spot checks. In addition, it cites lack of reasoning and infringement of the principle of proportionality.

Lastly, in connection with the correction in the fruit and vegetables sector, the applicant considers that the Commission has misinterpreted Article 20(5) and (7) of Regulation No 1169/1997.⁽⁷⁾ In any event, the applicant disputes the reasons given in the contested decision with regard to that chapter and alleges infringement of the principle of proportionality.

⁽¹⁾ OJ L 188 of 20.7.2005, p. 36.

⁽²⁾ Regulation (EEC) No 729/70 of the Council of 21 April 1970 on the financing of the common agricultural policy, OJ English Special Edition 1970(I), p. 218.

⁽³⁾ Council Regulation (EC) No 1258/1999 of 17 May 1999 on the financing of the common agricultural policy, OJ L 160 of 26.06.1999, p. 103.

⁽⁴⁾ Commission Regulation (EC) No 1663/95 of 7 July 1995 laying down detailed rules for the application of Council Regulation (EEC) No 729/70 regarding the procedure for the clearance of the accounts of the EAGGF Guarantee Section, OJ L 158 of 08.07.1995, p. 6.

⁽⁵⁾ Council Regulation (EEC) No 3508/92 of 27 November 1992 establishing an integrated administration and control system for certain Community aid schemes, OJ L 355 of 05.12.1992, p. 1.

⁽⁶⁾ Commission Regulation (EC) No 2419/2001 of 11 December 2001 laying down detailed rules for applying the integrated administration and control system for certain Community aid schemes established by Council Regulation (EEC) No 3508/92, OJ L 327 of 12.12.2001, p. 11.

⁽⁷⁾ Commission Regulation (EC) No 1169/97 of 26 June 1997 laying down detailed rules for the application of Council Regulation (EC) No 2202/96 introducing a Community aid scheme for producers of certain citrus fruits, OJ L 169 of 27.06.1997, p. 15.

definitive anti-dumping duty on imports of ammonium nitrate originating in Russia and Regulation (EC) No 132/2001 imposing a definitive anti-dumping duty on imports of ammonium nitrate originating in, inter alia, Ukraine, insofar as

— it extends the existing anti-dumping measures to products other than the product under investigation in breach of Article 1(1), Article 1(2), Article 3(2), Article 4(1) and Article 5(4) of the basic Regulation; and

— it was adopted in breach of the applicant's right of defence and procedural rights in that (i) the applicant was not granted the hearing it had requested under Article 6(5) of the basic Regulation and (ii) the Commission did not adequately disclose the essential facts and consideration on the basis of which it intended to recommend the modification of the scope of the measures as required by Article 20 of the basic Regulation, and that, had it not been for these breaches, the outcome of the anti-dumping investigation might have been different; and

— order the Council to bear the costs of the proceedings.

Pleas in law and main arguments

The applicant is a Russian company specialising in the production of fluoroplastics, chemicals, medical products and fertilisers, including ammonium nitrate. The applicant exports ammonium nitrate and other fertilisers to the Community.

It seeks the annulment of the contested Regulation on the grounds that it violates Articles 1(1), 1(2), 3(2), 4(1) and 5(4) of Council Regulation (EC) No 384/96⁽²⁾ in that it extends the existing anti-dumping measures to products which are not the product concerned.

It further contends that the contested Regulation was adopted in breach of its right of defence and of its procedural rights in that (i) it was not granted the hearing it had requested pursuant to Article 6(5) of Council Regulation (EC) No 384/96 and (ii) the Commission did not adequately disclose the essential facts and consideration on the basis of which it intended to recommend the modification of the scope of the measures as required by Article 20 of Council Regulation (EC) No 384/96.

⁽¹⁾ OJ L 160, 23/06/2005, p. 1

⁽²⁾ Council Regulation (EC) No 384/96 of 22 December 1995 on protection against dumped imports from countries not members of the European Community. OJ L 56, 06/03/1996, p. 1

Action brought on 14 September 2005 — JSC Kirovo-Chepetsky Khimichesky Kombinat/Council

(Case T-348/05)

(2005/C 281/57)

Language of the case: English

Parties

Applicant(s): JSC Kirovo-Chepetsky Khimichesky Kombinat (Kirovo Cheptesk, Russia) [represented by: B. Servais, Y. Melin, lawyers]

Defendant(s): Council of the European Union

Form of order sought

— Annul Council Regulation (EC) No 945/2005⁽¹⁾ of 21 June 2005 amending Regulation (EC) No 658/2002 imposing a