

Moreover, the applicant submits that, in not establishing that the Community incurred expenses or suffered other damage as a result of the applicant's failure to eliminate the excess quantities and in failing to adopt in time an appropriate legal measure authorising (i) the elimination of excess stock from the applicant's market, (ii) the means of determining what is excess stock and (iii) the means of calculating the applicant's financial burden, the defendant, by the contested decision, infringed the Treaty of Accession and the general legal principles of proportionality and legal certainty.

Finally, the applicant submits that a serious infringement of the procedural requirement to state reasons occurred.

<sup>(1)</sup> OJ 2007 L 138, p. 14.

<sup>(2)</sup> Treaty concerning the accession of the Czech Republic, the Republic of Estonia, the Republic of Cyprus, the Republic of Latvia, the Republic of Lithuania, the Republic of Hungary, the Republic of Malta, the Republic of Poland, the Republic of Slovenia and the Slovak Republic to the European Union (OJ 2003 L 236, p. 17).

<sup>(3)</sup> Act concerning the conditions of accession of the Czech Republic, the Republic of Estonia, the Republic of Cyprus, the Republic of Latvia, the Republic of Lithuania, the Republic of Hungary, the Republic of Malta, the Republic of Poland, the Republic of Slovenia and the Slovak Republic and the adjustments to the Treaties on which the European Union is founded (OJ 2003 L 236, p. 33).

## Action brought on 12 July 2007 — Czech Republic v Commission

(Case T-248/07)

(2007/C 211/89)

*Language of the case: Czech*

### Parties

*Applicant:* Czech Republic (represented by: T. Boček, Agent)

*Defendant:* Commission of the European Communities

### Form of order sought

- annul the contested decision in its entirety;
- alternatively, annul the contested decision inasmuch as it relates to the Czech Republic;
- order the Commission to repay the sums already paid;
- order the Commission to pay the costs.

### Pleas in law and main arguments

The applicant seeks annulment of Commission Decision C(2007) 1979 final version of 4 May 2007 on the determin-

ation of surplus stocks of agricultural products other than sugar and the financial consequences of their elimination in relation to the accession of the Czech Republic, Estonia, Cyprus, Latvia, Lithuania, Hungary, Malta, Poland, Slovenia and Slovakia <sup>(1)</sup>. By that decision, the Commission fixed the quantities of meat, fruits and rice in free circulation in the Czech Republic at the date of accession exceeding the quantities which could be regarded as constituting a normal carryover of stock at 1 May 2004. At the same time, it charged the applicant EUR 12 287 000 in consequence of the expense of elimination of those quantities.

The applicant submits that the Commission exceeded its power and thus infringed paragraph 4 of Chapter 4 of Annex IV to the Act concerning the conditions of Accession <sup>(2)</sup> by, in the contested decision based on that provision, fixing the financial amounts which the new Member States are to pay to the Community budget in respect of the total quantity of stocks of agricultural products.

In addition, the applicant states that even if the Commission were to have the power to adopt the contested measure on the basis of paragraph 4 of Chapter 4 of Annex IV to the Act concerning the conditions of Accession, by its adoption, the Commission infringed the principle of proportionality, in that that measure was not necessary, or more precisely was not appropriate, having regard to the objective which the obligation to eliminate excess stocks pursues.

Moreover, the applicant submits that the defendant infringed paragraph 2 of Chapter 4 of Annex IV to the Act concerning the conditions of Accession in conjunction with Article 10 EC, as well as the principle of legal certainty and legitimate expectation, by failing to define the concept of normal carryover of stock and by adopting the contested decision in a manner which lacked transparency.

The applicant states that the Commission infringed paragraph 2, Chapter 4 of Annex IV to the Act concerning the conditions of Accession in that the contested decision fails to have regard to all the relevant circumstances.

Finally, the applicant submits that the defendant infringed paragraph 4 of Chapter 4 of Annex IV to Act concerning the conditions of Accession by failing to sufficiently state reasons for its decision.

<sup>(1)</sup> OJ 2007 L 138, p. 14.

<sup>(2)</sup> Act concerning the conditions of accession of the Czech Republic, the Republic of Estonia, the Republic of Cyprus, the Republic of Latvia, the Republic of Lithuania, the Republic of Hungary, the Republic of Malta, the Republic of Poland, the Republic of Slovenia and the Slovak Republic and the adjustments to the Treaties on which the European Union is founded (OJ 2003 L 236, p. 33).