

In support of its claims, the applicant submits that the assessments of its project by EACEA's external experts, and consequently the points awarded by them for each of the award criteria, are vitiated by the inadequate reasoning given, the misapplication of the assessment criteria and the inherently contradictory and illogical nature of the evaluations made. Those irregularities played a decisive role in the exclusion — by no more than 0.5 points — of the applicant's project from the list of projects selected for funding.

In that connection, it should be pointed out that Article 109 of Council Regulation (EC, Euratom) No 1605/2002 of 25 June 2002 on the financial regulation applicable to the general budget of the European Communities states, in relation to the award of grants, that 'The award of grants shall be subject to the principles of transparency and equal treatment'.

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**Action brought on 3 November 2009 — Azienda Agricola Bracceso v Commission**

(Case T-440/09)

(2009/C 312/69)

*Language of the case: Italian*

**Parties**

*Applicant:* Azienda Agricola Bracceso Srl (Orgiano, Italy) (represented by: F. Tosello, S. Rizzioli and C. Pauly, lawyers)

*Defendant:* Commission of the European Communities

**Form of order sought**

— Order the Commission, in accordance with Article 235, and the second paragraph of Article 288, of the EC Treaty, to

pay Azienda Agricola Bracceso srl, now in liquidation, damages in the amount of EUR 335 000, or such other sum as may be determined in the course of the proceedings or, in any event, as may be held to be fair, together with interest at the statutory rate until due settlement.

— Order the defendant to pay the costs of the proceedings.

**Pleas in law and main arguments**

The present application for compensation for damage, based on the non-contractual liability of the European Communities, is made in the context of the Community measures to combat avian influenza.

In that connection, it is pointed out that, following the disruption to the European poultrymeat market brought about by the fall in prices resulting from the reduction in consumer demand — which was in turn linked to the spread of avian influenza — the Commission decided to take action by means of Regulation No 1010/2006,<sup>(1)</sup> which makes provision for support measures for poultry producers.

However, notwithstanding the fact that the definition of poultry in the Community animal health legislation covers quail, poultry producers involved in the raising and slaughtering of that species have been excluded, without any reasons being given, from receiving the aid.

The applicant — Azienda Agricola Bracceso srl in liquidation — submits that it has suffered wrongful damage as a result of the conduct of the Commission, which constitutes a manifest and serious infringement of one of the fundamental principles of the Community legal order, that is to say, the principle of equal treatment.

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<sup>(1)</sup> Commission Regulation (EC) No 1010/2006 of 3 July 2006 on certain exceptional market support measures in the eggs and poultry sector in certain Member States (OJ 2006 L 180, p. 3).