



## Reports of Cases

Case C-545/11

**Agrargenossenschaft Neuzelle eG**  
v  
**Landrat des Landkreises Oder-Spree**

(Request for a preliminary ruling from the Verwaltungsgericht Frankfurt (Oder))

(Common agricultural policy — Regulation (EC) No 73/2009 — Article 7(1) and (2) — Modulation of direct payments granted to farmers — Further reduction in the amount of direct payments — Validity — Principle of the protection of legitimate expectations — Principle of non-discrimination)

Summary — Judgment of the Court (Fourth Chamber), 14 March 2013

- EU law — Principles — Protection of legitimate expectations — Conditions — Specific assurances given by the authorities*
  - Agriculture — Common agricultural policy — Direct support schemes — Common rules — Modulation of direct payments granted to farmers — Additional reduction in those payments as against the amounts initially set — Breach of the principle of the protection of legitimate expectation — Lack of breach*  
*(Council Regulations No 1782/2003, recital 22 and Arts 10(1) and 30, and No 73/2009, Art. 7(1))*
  - EU law — Principles — Non-discrimination — Application, in the context of the common agricultural policy — Discretion of the European Union legislature — Judicial review — Limits*  
*(Arts 40 TFEU to 43 TFEU)*
  - Agriculture — Common agricultural policy — Direct support schemes — Common rules — Modulation of direct payments granted to farmers — Additional reduction in those payments as against the amounts initially set — Increase by 4 percentage points for amounts exceeding EUR 300 000 — Breach of the principle of non-discrimination — No such breach*  
*(Council Regulation No 73/2009, Art. 7(2))*
  - Union law — Interpretation — Statement of the Commission during the adoption of secondary legislation — No effect*
1. See the text of the decision.

(see paras 23-26)

2. There is no factor of such a kind as to affect the validity of Article 7(1) of Regulation No 73/2009 establishing common rules for direct support schemes for farmers under the common agricultural policy and establishing certain support schemes for farmers, a provision which provides for an additional reduction in direct payments as against the amounts laid down in Article 10(1) of Regulation No 1782/2003 establishing common rules for direct support schemes under the common agricultural policy and establishing certain support schemes for farmers in the light of the principle of protection of legitimate expectations.

Although the latter provision contained percentage reductions of direct payments for the years 2009 to 2012 which were less than those provided for in Article 7(1) of Regulation No 73/2009, farmers in the European Union cannot rely on a legitimate expectation as regards the retention, for those years, of percentage reductions as laid down in Regulation No 1782/2003 since, in the light of recital 22 of that regulation and of Article 30 thereof, a prudent and alert economic operator was in a position to foresee that the direct payments under the revenue support schemes could be reduced following a review, in the light of market developments and the budgetary situation.

(see paras 30-33, 38, 39, operative part 1)

3. See the text of the decision.

(see paras 41-43)

4. There is no factor of such a kind as to affect the validity of Article 7(2) of Regulation No 73/2009 establishing common rules for direct support schemes for farmers under the common agricultural policy and establishing certain support schemes for farmers, a provision according to which the additional reductions provided for in Article 7(1) are to be increased by 4 percentage points for amounts exceeding EUR 300 000 in the light of the principle of non-discrimination.

First, although that provision leads to difference in treatment between farmers depending on the size of the agricultural area of land farmed, that difference in treatment can be justified by objective reasons which are not manifestly inappropriate and which are drawn from the specific characteristics of the large beneficiaries, which makes it possible to consider that they are in a different situation to that of the other farmers.

Second, that provision does not differentiate depending on the legal form under which the agricultural activity is exercised.

(see paras 44-46, 49, 53, operative part 2)

5. See the text of the decision.

(see para. 52)