

Pleas in law and main arguments

By its action, the Hellenic Republic seeks the annulment of the Commission decision of 7 December 2011 ‘concerning State aid C 3/2010 and compensation payments made by the Organismos Ellinikon Georgikon Asfaliseon (Greek Agricultural Insurance Organisation) (ELGA) in 2008 and 2009’, notified under number C(2011) 7260 final.

By the first plea for annulment, the applicant submits that the Commission misinterpreted and misapplied the provisions of Articles 107(1) and 108 TFEU in conjunction with the provisions of Law No 1790/1988,⁽¹⁾ which govern ELGA, and that it assessed the facts incorrectly, because all the payments in 2009 (EUR 415 019 452) constituted genuine compensation for damage to crop production and livestock as a result of adverse weather conditions occurring in 2007 and 2008, which ELGA, as a *sui generis* social insurance body, had to make good in the context of the compulsory insurance scheme covering agricultural production.

By the second plea for annulment, the applicant pleads an error as regards the assessment of the facts and an infringement of essential procedural requirements because the Commission, incorrectly assessing the facts and stating defective and/or insufficient reasons, reached the conclusion that the payments in 2009 constitute unlawful State aid, since they are not justified by the nature and general scheme of ELGA’s system of compulsory insurance, they constituted an economic advantage for their recipients and they threatened to distort competition and to affect trade between Member States.

By the third plea for annulment, the applicant pleads misinterpretation and misapplication of Articles 107 and 108 TFEU and the infringement of essential procedural requirements, because the Commission unlawfully, and in any event with a deficient statement of reasons, also included in the financial amounts that it is necessary to recover as unlawful State aid the EUR 186 011 000,60 which corresponded to the compulsory insurance contributions paid by the farmers themselves in 2008 and 2009 within the framework of the compulsory insurance scheme to ELGA and which did not constitute unlawful State aid but private resources, so that that sum had to be deducted from the final sum to be recovered.

By the fourth plea for annulment, the applicant pleads misinterpretation and misapplication by the Commission of Article 107(3)(b) TFEU and wrongful exercise of the discretion that is available to the Commission in the area of State aid, since in any event the payments in 2009 had to be regarded as compatible with the common market because of the manifest seriousness of the economic disturbance in the entire Greek economy and the entry into force of a provision of primary European Union law cannot depend upon the entry into force of a Commission communication such as the Temporary Community Framework.

By the fifth plea for annulment, the applicant submits that by the contested decision the Commission in any event infringed Articles 39, 107(3)(b) and 296 TFEU and the general principles of equal treatment, of proportionality, of the protection of legitimate expectations, of economic freedom and of the rules of competition, because of the unjustifiable and unreasoned exception and failure to apply immediately from 17 December 2008 the Temporary Community Framework — as in force for all other undertakings, in all other sectors of the Community economy — to undertakings specialised in primary agricultural production.

By the sixth plea for annulment, the applicant submits that by the contested decision the Commission carried out an erroneous assessment and calculation of the sums to be recovered, since it failed to deduct the *de minimis* aid as provided for in Regulations No 1860/2004⁽²⁾ and No 1535/2007⁽³⁾ ‘relating to the application of Articles 107 and 108 TFEU to *de minimis* aid in the sector of agricultural production’.

By the seventh plea for annulment, the applicant submits that the Commission misinterpreted and misapplied the Guidelines for State aid in the agriculture and forestry sector 2007-2013 and wrongfully exercised its discretion — at the same time stating defective and contradictory reasons — in finding that the compensation granted in 2008 for damage to crop production caused by bears with an aid intensity of 100 % was compatible with the common market only at the rate of 80 %.

(1) Law No 1790/1988 concerning ‘the organisation and operation of the Greek Agricultural Insurance Organisation and other provisions’ (FEK A 134/20.06.1988).

(2) Commission Regulation (EC) No 1860/2004 of 6 October 2004 on the application of Articles 87 and 88 of the EC Treaty to *de minimis* aid in the agriculture and fisheries sectors.

(3) Commission Regulation (EC) No 1535/2007 of 20 December 2007 on the application of Articles 87 and 88 of the EC Treaty to *de minimis* aid in the sector of agricultural production.

Action brought on 10 February 2012 — Planet v Commission

(Case T-59/12)

(2012/C 118/45)

Language of the case: Greek

Parties

Applicant: Planet A.E. public limited consultancy company (Athens, Greece) (represented by: V. Christianos, lawyer)

Defendant: European Commission

Form of order sought

The applicant claims that the General Court should:

- declare that the delayed payment by the Commission of the last instalment of the funds payable to the applicant in respect of the work contract 'Collaboration Environment for Strategic Innovation (Laboranova)', amounting to EUR 20 665,17, constitutes a breach of its contractual obligations and order the Commission to pay to the applicant the sum of EUR 20 665,17, in respect of the expenses incurred by the applicant in the fourth reference period of the Laboranova work, with interest from 12 October 2011;
- declare that the applicant is not obliged to repay to the Commission the advance payment amounting to EUR 39 657,30 for the P4 period of the Laboranova work;
- order the Commission to pay to the applicant the sum of EUR 30 000,00, as compensation for the damage to the applicant's professional reputation which was caused by the Commission's breach of professional confidentiality, with compensatory interest from 6 October 2011 until delivery of the judgment in this case and with late payment interest from the delivery of the judgment in these proceedings until full payment; and
- order the Commission to pay the applicant's costs.

Pleas in law and main arguments

By this action, the applicant combines two actions.

First, an action in respect of the Commission's liability under contract No 035262 for the implementation of the work 'Collaboration Environment for Strategic Innovation (Laboranova)', under Article 272 TFEU. In particular, the applicant maintains that, although it fully and properly fulfilled its contractual obligations, the Commission, without any justification and contrary to the terms of the abovementioned contract and the principle of good faith, rejected the applicant's expenses for the period P4 and suspended payment to the applicant. Consequently, the applicant maintains that the Commission is obliged to pay it the sum of EUR 20 665,17 with, as provided in clause II 28(7) of Annex II to the Contract, interest from 12 October 2011, and that the Commission is not entitled to seek from Planet repayment of the advance payment for the period P4, amounting to EUR 39 657,30.

Second, an action in respect of the Commission's non-contractual liability, pursuant to the second subparagraph of Article 340 TFEU. In particular, the applicant maintains that the Commission, by communicating to the coordinator of the work the existence of a financial audit in respect of the applicant, blatantly disregarded the rules in relation to protection of professional confidentiality, and consequently damaged the applicant's professional reputation. Accordingly,

the applicant seeks compensation for the non-material harm suffered by it with interest (compensatory interest for the period from the date of the illegal communication until delivery of the judgment in this case and until full payment of the due compensation); expressly without prejudice to compensation for the material damage caused by the abovementioned unlawful conduct of the Commission.

Appeal brought on 16 February 2012 by Guido Strack against the order of the Civil Service Tribunal of 7 December 2011 in Case F-44/05 RENV Strack v Commission

(Case T-65/12 P)

(2012/C 118/46)

Language of the case: German

Parties

Appellant: Guido Strack (Cologne, Germany) (represented by H. Tettenborn, lawyer)

Other party to the proceedings: European Commission

Form of order sought by the appellant

- set aside in its entirety the order of the Civil Service Tribunal of the European Union (Second Chamber) of 7 December 2011 in Case F-44/05 RENV;
- order the defendant, pursuant to the form of order applied for under paragraph 1 of Section A.4 of his written submission of 21 February 2011 in Case F-44/05 RENV, the reasoning being stated in paragraphs 78 to 85 of that written submission, to pay damages to the applicant of at least EUR 2 500 on account of the excessive duration of the proceedings, in accordance with Article 6 ECHR;
- order the Commission to bear the entire costs of the present appeal proceedings.

Grounds of appeal and main arguments

In support of the appeal, the appellant relies on four grounds.

1. First ground, alleging infringement of the right of access to his lawful judge, Article 6(1) of the European Convention for the Protection of Human Rights and Fundamental Freedoms (ECHR), Article 47(2) of the Charter of Fundamental Rights of the European Union (Charter) and Article 4(4) of Annex I to the Statute of the Court of Justice of the European Union

The appellant argues in this connection that the case was first assigned to another chamber of the Civil Service Tribunal and that there was no legal basis for the second assignment undertaken thereafter.