

The Act of Accession did not lay down provisions concerning modulation of the direct payments introduced and/or reduction in Lithuania of complementary national direct payments.

The provision 'taking into account any reductions applied under Article 7(1)' in Article 10(1) in Chapter 2 of Regulation No 73/2009 is contrary to the Act of Accession because this provision accelerates the supposed equalisation of the level of direct payments in the old and new Member States.

The part of Article 132(2) of Regulation No 73/2009 '... taking into account, from 2012, the application of Article 7 in conjunction with Article 10', which enshrines the supposed equalisation in 2012 of the level of direct payments in the old and new Member States, is contrary to the Act of Accession because it lays down a specific year (2012) when the level of support received is supposedly equalised.

In Article 132(2) of Regulation No 73/2009, in breach of the Act of Accession, the term 'amount' was changed to the term 'level', which involves not the support actually received but a supposed percentage.

It is unlawful to compare direct payments in the old and new Member States by comparing support received by the old Member States (100 % minus modulation) with the support received in the new Member States in accordance with the percentage rate, laid down in the Act of Accession, for the introduction of support.

5. Infringement by the contested legal measures of the objectives of the common agricultural policy that are laid down

On the basis of the Act of Accession, agricultural support in the new Member States is calculated according to the reference yield and the base area. In 2012 the reference yield and the base area changed greatly in Lithuania, so that the modulation applied and the reduction of complementary national payments are in themselves contrary to the objectives of the common agricultural policy, in particular to the objective of increasing agricultural productivity.

Action brought on 31 July 2013 — Orange v Commission

(Case T-402/13)

(2013/C 313/53)

Language of the case: French

Parties

Applicant: Orange (Paris, France) (represented by: J.-P. Gunther and A. Giraud, lawyers)

Defendant: European Commission

Form of order sought

The applicant claims that the Court should:

- annul the contested decision;
- order the Commission to pay the costs.

Pleas in law and main arguments

By the present action, the applicant seeks annulment of the Commission's decisions of 25 and 27 June 2013 addressed to France Télécom, Orange and all the companies directly or indirectly controlled by them, ordering them to undergo an inspection pursuant to Article 20(4) of Council Regulation No 1/2003.⁽¹⁾ Those decisions were taken in the context of proceedings under Article 102 TFEU and Article 54 of the EEA Agreement concerning the sector providing internet connectivity services (Case AT.40090).

In support of the action, the applicant relies on two pleas in law.

1. First plea in law, alleging infringement of the principles of necessity and proportionality, in that the Commission ordered an inspection in relation to practices which were very similar to those covered by a decision delivered by the French competition authority only nine months earlier, even though the French competition authority found no anti-competitive conduct on the part of Orange. The applicant claims that, at the time of the inspection, the Commission did not seek additional information to that which it already had at its disposal, something which it ought to have done in accordance with the case-law in this area.
2. Second plea in law, alleging that the contested decisions are arbitrary, in that the Commission does not have sufficiently serious and detailed grounds for taking a measure as intrusive as an inspection.

⁽¹⁾ Council Regulation (EC) No 1/2003 of 16 December 2002 on the implementation of the rules on competition laid down in Articles [101 TFEU] and [102 TFEU] (OJ 2003 L 1, p. 1).

Action brought on 29 July 2013 — Gossio v Council

(Case T-406/13)

(2013/C 313/54)

Language of the case: French

Parties

Applicant: Marcel Gossio (Casablanca, Morocco) (represented by: S. Zokou, lawyer)