

- The Commission could not reasonably conclude that Article 27 of Regulation (EC) No 796/2004 had been infringed given that the evidence adduced by the Kingdom of Spain during the verification procedure established that an adequate analysis had been carried out and appropriate measures had been taken to improve risk-based selection. Accordingly, there has not been an infringement of EU law which excludes financing of agricultural expenditure under Article 31 of Regulation (EC) No 1290/2005 and Article 52 of Regulation (EU) No 1306/2013.
2. The imposition of a correction in the amount of EUR 2 123 619,66 ('natural handicaps' and 'agri-environmental measures') should be annulled for the following reasons:
- It infringes Articles 10(2), 10(4) and 14(2) of Regulation (EC) No 1975/2006 in so far as the Commission found that the Kingdom of Spain had failed to fulfil its obligations concerning controls on the ground, since it had failed to carry out animal counts during on-the-spot checks in respect of aid pertaining to 'natural handicaps' and 'agri-environmental measures'. This plea in law is divided into two parts, by which the Kingdom of Spain submits that:
 - a) the obligation to count animals during on-the-spot checks in respect of the aid for the rural development programme of Castilla y León 2007-2013 breaches the principle of the continuity of the livestock density criterion and the principle of equal treatment, and
 - b) the Commission wrongly interpreted Articles 10(2) and 10(4), read in conjunction with Article 14(2), of Regulation (EC) No 1975/2006 by finding that the Spanish system was not appropriate for verifying compliance with the livestock density criterion.
 - It infringes Article 2(2) of Regulation (EC) No 1082/2003 and Article 26(2)(b) of Regulation (EC) No 796/2004, to the extent that the Kingdom of Spain has databases of cattle, sheep and goats which are reliable and continually updated in accordance with requirements.
 - It infringes Article 31(2) of Regulation (EC) No 1290/2005 in so far as it is manifestly disproportionate to impose a financial correction of 5 % in respect of the measures concerned by the investigation. The financial correction is disproportionate as, even if the infringement attributed to the Spanish authorities were to be confirmed, the contested decision goes beyond what is appropriate and necessary to protect the financial interests of the Union.

Action brought on 29 March 2015 — Romania v European Commission

(Case T-145/15)

(2015/C 178/20)

Language of the case: Romanian

Parties

Applicant: Romania (represented by: R. Radu, V. Angelescu, R. Mangu, D. Bulancea, Agents)

Defendant: European Commission

Form of order sought

- Partial annulment of Commission Implementing Decision (EU) 2015/103 of 16 January 2015 excluding from European Union financing certain expenditure incurred by the Member States under the European Agricultural Guarantee Fund (EAGF) and under the European Agricultural Fund for Rural Development (EAFRD);
- order the defendant to pay the costs.

Pleas in law and main arguments

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

1. First plea in law, alleging incorrect exercise of the European Commission's power to exclude amounts from European Union financing

— By applying the flat rate corrections set out in Implementing Decision (EU) 2015/103, the Commission infringed Article 52 of Regulation (EU) 1306/2013 of 17 December 2013 on the financing, management and monitoring of the common agricultural policy and repealing Council Regulations (EEC) No 352/78, (EC) No 165/94, (EC) No 2799/98, (EC) No 814/2000, (EC) No 1290/2005 and (EC) No 485/2008 and the Commission Guidelines for applying financial corrections set out in Commission Document No VI/5330/97 of 23 December 1997 entitled 'Guidelines for the calculation of financial consequences when preparing the decision regarding the clearing of the accounts of the EAGGF Guarantee Section'.

— The Commission was required to establish the corrections by identifying amounts unduly spent by Romania, and not to apply flat rate corrections bearing in mind that the nature of the situation did not require this and that the Romanian State had made the necessary information available to the Commission to calculate the corrections. In those circumstances it cannot be considered that a disproportionate effort was required on the part of the Commission, in order to calculate the corrections based on actual loss of funds.

2. Second plea in law, alleging insufficient and inadequate reasons for the contested decision

— Implementing Decision (EU) 2015/103 was not supported by sufficient reasons since when adopting that decision, the Commission did not give sufficient reasons for choosing to apply a flat rate calculation to the irregularities found in the audits, and has failed adequately to justify why the arguments raised by Romania regarding the possibility of applying of a calculated correction cannot be accepted and taken into consideration in establishing the final adjustment.

3. Third plea in law, alleging breach of the principle of proportionality

— The contested decision breaches the principle of proportionality in so far as application of a flat rate correction of 10 % regarding the expenditure for the 2009 claim year and 5 % for the 2010 claim year gives rise to an overestimate of losses to EU funds resulting from the irregularities found in the audits, the rates mentioned not taking into account the nature and the seriousness of the infringements or the financial implications for the EU Budget.

**Action brought on 1 April 2015 — Abertis Infraestructuras and Abertis Telecom Satélites v
Commission**

(Case T-158/15)

(2015/C 178/21)

Language of the case: Spanish

Parties

Applicants: Abertis Infraestructuras, SA (Barcelona, Spain) and Abertis Telecom Satélites, SA (Madrid, Spain) (represented by: J. Buendía Sierra, M. Maragall de Gispert, M. Santa María Fernández, J. Panero Rivas, and A. Balcells Cartagena, lawyers)

Defendant: European Commission