

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

1. First plea in law, alleging infringement of Article 24 of Regulation (EC) No 73/2009 and Article 71 of Regulation (EC) No 1122/2009 <sup>(1)</sup> by finding, contrary to those provisions, that the Netherlands sanctioning system is too lenient.
2. Second plea in law, alleging infringement of Articles 3, 4 and 5 of Regulation (EC) No 73/2009 <sup>(2)</sup> by finding, contrary to those provisions and in breach of the principle of legal certainty, that the Netherlands carried out a partial control for statutory management requirement 8 ('SMR') as set out in Annex II to Regulation (EC) No 73/2009. The applicant submits that the Commission wrongly considers the Netherlands sanctioning system not to meet all the requirements of Regulation (EC) No 21/2004 <sup>(3)</sup> and of Articles 3, 4 and 5 of Regulation (EC) No 73/2009.

<sup>(1)</sup> Regulation (EC) No 73/2009 of 19 January 2009 establishing common rules for direct support schemes for farmers under the common agricultural policy and establishing certain support schemes for farmers, amending Regulations (EC) No 1290/2005, (EC) No 247/2006, (EC) No 378/2007 and repealing Regulation (EC) No 1782/2003 (OJ 2009 L 30, p. 16).

<sup>(2)</sup> Regulation (EC) No 1122/2009 of 30 November 2009 laying down detailed rules for the implementation of Council Regulation (EC) No 73/2009 as regards cross-compliance, modulation and the integrated administration and control system, under the direct support schemes for farmers provided for that Regulation, as well as for the implementation of Council Regulation (EC) No 1234/2007 as regards cross-compliance under the support scheme provided for the wine sector (OJ 2009 L 316, p. 65).

<sup>(3)</sup> Council Regulation (EC) No 21/2004 of 17 December 2003 establishing a system for the identification and registration of ovine and caprine animals and amending Regulation (EC) No 1782/2003 and Directives 92/102/EEC and 64/432/EEC (OJ 2004 L 5, p. 8).

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**Action brought on 1 September 2015 — Spain v Commission**

**(Case T-502/15)**

(2015/C 346/41)

*Language of the case: Spanish*

**Parties**

*Applicant:* Kingdom of Spain (represented by: L. Banciella Rodríguez-Miñón)

*Defendant:* European Commission

**Form of order sought**

The applicant claims that the court should:

— annul in part the Commission Implementing Decision of 22 June 2015 excluding from European Union financing certain expenditure incurred by the Member States under the European Agriculture Guarantee Fund (EAGF) and under the European Agricultural Fund for Rural Development (EAFRD), in so far as it concerns the Kingdom of Spain;

— order the European Commission to pay the costs.

**Pleas in law and main arguments**

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

In relation to the Catalan Autonomous Community:

1. The imposition of a flat-rate correction in the amount of EUR 609 337,80 and the method of calculation used, were contrary to Article 31(2) of Council Regulation (EC) No 1290/2005 of 21 June 2005 on the financing of the Common Agricultural Policy, the guidelines set out in Commission document No VI/5330/97 of 23 December 1997 (Guidelines for the calculation of financial consequences when preparing the decision regarding the clearance of the accounts of the EAGGF Guarantee section) and to the document AGRI-64043-2005 (*Commission Communication on how the Commission intends in the context of the EAGGF-Guarantee clearance procedure to handle shortcomings in the context of cross-compliance control systems implemented by Member States*) in so far as it is inappropriate to apply a flat-rate assessment, since the Kingdom of Spain had provided a specific evaluation of the actual risks for the fund. The implementing measure adopted by the Commission was not only incorrect, but also disproportionate and unjustified.
2. The addition of a specific correction in the amount of EUR 609 337,80 to the general flat-rate correction of 2 % and the method of calculation are contrary to Article 31(2) of Council Regulation (EC) No 1290/2005 and to the Commission documents on the guidelines for the calculation of financial corrections, because it is not appropriate to use two methods of calculation at the same time for the same infringement. To proceed in that way is not only legally incoherent but also disproportionate and unjustified.
3. The correction imposed for the 2010 application year, the 2011/2012 financial year, infringes Article 31(4) of Regulation (EC) No 1290/2005, implies failure to observe the principle of sincere cooperation and infringes the rights of defence of the Kingdom of Spain in so far as the defendant has unduly extended the financial correction to cover the period subsequent to the 24 months preceding the Communication, even though the shortcomings had already been rectified by the Kingdom of Spain.

In relation to the Autonomous Community of the Canaries on the basis of the following plea in law:

4. The correction imposed at a flat-rate on the sum of EUR 1 689 689,03 and the method of calculation used are contrary to Article 31(2) of Council Regulation (EC) No 1290/2005 and the guidelines set out in Commission document AGRI/D/40474/2010-REV 1.
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