

Action brought on 7 June 2018 — Greece v Commission**(Case T-295/18)**

(2018/C 249/50)

*Language of the case: Greek***Parties**

Applicant: Hellenic Republic (represented by: G. Kanellopoulos, I. Pachi, A.-Ev. Vasilopoulou and Eug. Chroni)

Defendant: European Commission

Form of order sought

The applicant claims that the Court should:

- annul the contested decision in so far as it excludes from European Union financing expenditure by the Hellenic Republic amounting in total to EUR 17 869 131,75 (gross) (budgetary impact EUR 14 857 076,98) incurred and declared within the framework of the EAFRD concerning measures 125A, 321 and 322 (gross amount EUR 15 631 043,52 and budgetary impact EUR 12 618 988,75) and measure 123A (in the amount of EUR 2 238 088,23) as well as an amount of EUR 588 103,59 which was incurred under the EAGF following the control of transactions measure for the budgetary years 2011-2014 and
- order the defendant to pay the costs of the Hellenic Republic.

Pleas in law and main arguments

In support of the action for annulment, the applicant puts forward eight pleas in law. The first six concern the correction imposed under the EAFRD for measures 125A, 321, 322 and 123A, while the last two concern the correction imposed for weaknesses in the control of transactions under Title V Chapter III of Regulation (EU) No 1306/2013.⁽¹⁾

1. The first plea alleges an incorrect interpretation and application of the case referred to in Article 52(4)(c) of Regulation (EU) No 1306/2013, exceeding the Commission's competence *ratione temporis* to impose the financial corrections at issue and an error of fact on the part of the Commission in determining the basis for calculation of the correction at issue.
2. The second plea alleges, in the alternative, infringement of the principles of *ne bis in idem*, legal certainty, sound administration, legitimate expectation on the part of a Member State and proportionality.
3. The third plea for annulment is based on an infringement of Articles 71(2) and 75(1) of Regulation (EC) No 1698/2005,⁽²⁾ Article 43 of Regulation (EC) No 1974/2006,⁽³⁾ the provisions of the Rural Development Programme approved by the Commission (RDP 2007-2013) and Article 24(2)(b) of Regulation (EU) No 65/2011⁽⁴⁾, the lack of a legal basis and of a statement of reasons and on an error of assessment of the facts as regards the flat-rate financial correction of 10 % that was imposed, in light of the fact that the managing authority fully exercised its powers in accordance with the law.
4. The fourth plea for annulment alleges, in the alternative to the third plea, infringement of the principles of proportionality, of the legitimate expectations of the Member State and of the guidelines set out in documents VI/5339/1997 and C(2015) 3675 of 8 June 2015, as well as an inadequate statement of reasons concerning the flat-rate correction of 10 % imposed.
5. The fifth plea for annulment alleges infringement of the provisions of Article 24(2) of Regulation (EC) No 65/2011, an error of assessment of the facts and an inadequate statement of reasons concerning the alleged failure of the managing authority to assess the aid applications and the alleged absence of management control over the assessment work, as well as infringement of the principle of proportionality.

6. The sixth plea for annulment alleges infringement of the provisions of Article 24(1) and (2) of Regulation (EC) No 65/2011, of the principle of proportionality, an error in the assessment of the facts and an inadequate statement of reasons concerning the alleged failure to assess the reasonableness of the expenditure.
7. According to the seventh plea for annulment, the financial correction imposed for the financial years 2011 to 2013 must be annulled in so far as it lacks a legal basis and a statement of reasons; in respect of 2013 in particular, it is contrary to the principle of sound administration.
8. In the eighth plea for annulment, which is divided into five separate parts, it is alleged that the correction at issue was imposed following an error of assessment of the facts by the Commission, with a total failure to state reasons and in breach of the Hellenic Republic's rights of defence.

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- (¹) Regulation (EU) No 1306/2013 of the European Parliament and of the Council 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 (OJ 2013 L 347, p. 549).
- (²) Council Regulation (EC) No 1698/2005 of 20 September 2005 on support for rural development by the European Agricultural Fund for Rural Development (EAFRD) (OJ 2005 L 277, p. 1).
- (³) Commission Regulation (EC) No 1974/2006 of 15 December 2006 laying down detailed rules for the application of Council Regulation (EC) No 1698/2005 on support for rural development by the European Agricultural Fund for Rural Development (EAFRD) (OJ 2006 L 368, p. 15).
- (⁴) Commission Regulation (EU) No 65/2011 of 27 January 2011 laying down detailed rules for the implementation of Council Regulation (EC) No 1698/2005, as regards the implementation of control procedures as well as cross-compliance in respect of rural development support measures (OJ 2011 L 25, p. 8).

Action brought on 7 May 2018 — Banco Comercial Português and Others v Commission

(Case T-298/18)

(2018/C 249/51)

Language of the case: English

Parties

Applicants: Banco Comercial Português (Porto, Portugal), Banco ActivoBank S.A. (Lisbon) and Banco de Investimento Imobiliário S.A. (Lisbon) (represented by: C. Botelho Moniz, L. do Nascimento Ferreira, F.-C. Laprévotte, A. Champsaur and D. Oda, lawyers)

Defendant: European Commission

Form of order sought

— annul Commission Decision C(2017/N) of 11 October 2017 (State aid SA.49275) insofar as it considered the contingent capital agreement ('CCA') agreed and entered into between the Portuguese Resolution Fund ('Resolution Fund') and the Lone Star group ('Lone Star') in the context of the sale of Novo Banco, S.A. ('Novo Banco') by the former to the latter, as State aid compatible with the internal market, and

— order the Commission to pay the costs in relation to this procedure, including those of the applicants.