

**Action brought on 11 August 2021 — Hungary v Commission****(Case T-491/21)**

(2021/C 401/18)

*Language of the case: Hungarian***Parties***Applicant:* Hungary (represented by: M.Z. Fehér and G. Koós, Agents)*Defendant:* European Commission**Form of order sought**

The applicant claims that the Court should:

- annul Commission Implementing Decision (EU) 2021/988 of 16 June 2021 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), <sup>(1)</sup> in so far as it concerns Hungary by excluding from European Union financing support under the European Agricultural Fund for Rural Development for the financial years 2016 to 2019 based on the absence of a key control (Rural Development EAFRD forestry measures);
- order the Commission to pay the costs.

**Pleas in law and main arguments**

According to the Hungarian Government, the Commission incorrectly interprets Article 30 of Regulation (EU) No 1306/2013 <sup>(2)</sup> and Article 28(1)(b) of Implementing Regulation (EU) No 809/2014. <sup>(3)</sup> The Hungarian Government submits that the reasoning in point 3.4.2 of the Commission's explanatory document entitled 'Methods of the rural development premia calculation to exclude double funding', in the version dated February 2017, is not in line with those provisions. The explanatory document is not legally binding and the interpretation advocated by it is not consistent with EU law.

In support of its action, the Hungarian Government relies, in essence, on a single plea in law. It submits that Article 30 of Regulation (EU) 1306/2013 and Article 28(1)(b) of Regulation (EU) 809/2014 do not require checks to be established in respect of double funding that might arise as a result of support granted for greening and afforestation, bearing in mind that, according to the provisions of EU law currently in force, there is no justified risk of double funding so far as support granted for those two areas is concerned.

In support of that claim, first, the Hungarian Government seeks to show that expenses financed for afforestation and for greening have an entirely distinct objective in terms of support. Next, the Hungarian Government states in its application that the two contexts in which support is granted are also entirely distinct. The eligibility criteria are different for each type of support and the ranges of eligible expenditure are not the same.

Lastly, the Hungarian Government submits that the Commission incorrectly interprets the scope of the general prohibition of double funding in Article 30 of Regulation (EU) 1306/2013 and fails to take into consideration that the EU legislation currently in force does not expressly provide that support granted for afforestation and for greening constitutes double funding.

<sup>(1)</sup> OJ 2021 L 218, p. 9.

<sup>(2)</sup> 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).

<sup>(3)</sup> Commission Implementing Regulation (EU) No 809/2014 of 17 July 2014 laying down rules for the application of Regulation (EU) No 1306/2013 of the European Parliament and of the Council with regard to the integrated administration and control system, rural development measures and cross compliance (OJ 2014 L 227, p. 69).