

- Reliability of the on-the-spot checks, in particular adequate measurement of agricultural land. In its third plea in law, Germany rebuts the Commission's complaint that Brandenburg did not adequately measure land in the course of on-the-spot checks, which constitutes a breach of Article 6(5) of Regulation (EEC) No 3887/92⁽³⁾. That complaint is based, it submits, on factually and legally incorrect premisses.
- Adequate expansion of the sample coverage of on-the-spot checks. In its fourth plea in law, Germany deals with the complaint that Brandenburg did not adequately expand the required sample coverage of the on-the-spot checks within the holdings visited.
- The representative yields for non-food crops on set-aside land were assessed at a sufficiently high level. In its fifth plea in law, Germany demonstrates that the Commission's complaint — that the representative yields of renewable raw materials were assessed at too low a level — is unjustified.
- Lack of precision concerning the financial years to which expenditure is imputed. In its sixth plea in law, the level of expenditure imputed by the decision is contested. The Commission's decision is in part imprecise and is invalid in so far as its operative part and the statements in the Annex concerning an amount of EUR 12 927 107 are inconsistent. In the 1999 and 2000 financial years, the *Land* of Brandenburg incurred expenditure for crop years 1999 and 2000 of EUR 270 387 968. Applying the flat rate of 5 % imposed by the Commission, which is being contested, that results in an imputed amount of EUR 13 519 398. However, an amount of EUR 262 446 505 was imputed. Consequently an amount of EUR 12 927 107 was wrongly imputed.
- Incorrect risk assessment. Finally, in its seventh plea in law, it is argued that the declared flat-rate imputation of risk of 5 % is defective simply because no systematic administrative or checking errors were the subject of complaint in Brandenburg in the relevant period. Moreover, the calculation of the alleged loss to the EAGGF was made using inappropriate methods and arrived at in breach of Article 10 EC.

(1) Council Regulation (EC) No 1258/1999 of 17 May 1999 on the financing of the common agricultural policy (OJ 1999 L 160, p. 103).

(2) Commission Regulation (EC) No 1663/95 of 7 July 1995 laying down detailed rules for the application of Council Regulation (EEC) No 729/70 regarding the procedure for the clearance of the accounts of the EAGGF Guarantee Section (OJ 1995 L 158, p. 6).

(3) Commission Regulation (EEC) No 3887/92 of 23 December 1992 laying down detailed rules for applying the integrated administration and control system for certain Community aid schemes (OJ 1992 L 391, p. 36).

Reference for a preliminary ruling by the Tribunale di Tolmezzo by order of that Court of 16 April 2003 in the case of Azienda Agricola Schnabl Rosa against A.G.E.A. and COSPALAT F.V.G.

(Case C-185/03)

(2003/C 146/57)

Reference has been made to the Court of Justice of the European Communities by order of the Tribunale di Tolmezzo (Tolmezzo District Court) of 16 April 2003, received at the Court Registry on 5 May 2003, for a preliminary ruling in the case of Azienda Agricola Schnabl Rosa against A.G.E.A. and COSPALAT F.V.G. on the following question:

Must Article 1 of Regulation (EEC) No 856/84⁽¹⁾ of 31 March 1984 and Articles 1 to 4 of Regulation No 3950/92⁽²⁾ of 28 December 1992 be interpreted as meaning that the additional levy on milk and milk products is in the nature of an administrative penalty with the result that producers are liable to pay it only where quantities allocated have been exceeded by them intentionally or as a result of negligence?

(1) OJ L 90 of 1.4.1984, p. 10.

(2) OJ L 405 of 31.12.1992, p. 1.

Removal from the register of Case C-302/01⁽¹⁾

(2003/C 146/58)

By order of 6 February 2003 the President of the Court of Justice of the European Communities ordered the removal from the register of Case C-302/01: Commission of the European Communities v Hellenic Republic.

(1) OJ C 259 of 15.9.2001.

Removal from the register of Case C-86/02⁽¹⁾

(2003/C 146/59)

By order of 7 March 2003 the President of the Court of Justice of the European Communities ordered the removal from the register of Case C-86/02: Commission of the European Communities v Federal Republic of Germany.

(1) OJ C 131 of 1.6.2002.