

Pleas in law and main arguments

The period for transposition of the directive into national law expired on 31 October 2002.

⁽¹⁾ OJ L 316, 1.12.2001, p. 5.

Action brought on 28 June 2004 by the Republic of Poland against the Council of the European Union

(Case C-273/04)

(2004/C 239/10)

An action against the Council of the European Union was brought before the Court of Justice of the European Communities on 28 June 2004 by the Republic of Poland, represented by Jarosław Pietras.

The Republic of Poland claims that the Court should:

1. Declare invalid Article 1.5 of Council Decision 2004/281/EC of 22 March 2004 adapting the Act concerning the conditions of accession of the Czech Republic, the Republic of Estonia, the Republic of Cyprus, the Republic of Latvia, the Republic of Lithuania, the Republic of Hungary, the Republic of Malta, the Republic of Poland, the Republic of Slovenia and the Slovak Republic and the adjustments to the Treaties on which the European Union is founded, following the reform of the common agricultural policy ⁽¹⁾; and
2. — conduct the proceedings in Polish,
 - determine the case in plenary formation,
 - order the Council of the European Union to pay the costs.

Pleas in law and main arguments:

The Government of the Republic of Poland takes the view that Article 23 of the Act of Accession, construed in accordance with the principles governing the interpretation of international agreements and Community law, does not provide any legal basis for adoption of the measures specified in Article 1.5 of Decision 2004/281/EC and based on the extension of the restricted scope of payments to the new direct payments.

The contested measure does not constitute an adjustment to the Act of Accession designed to take account of changes to

the Common Agricultural Policy, but amounts rather to a fundamental alteration of the conditions of accession defined in that Act that is detrimental to the Republic of Poland and to agricultural producers operating within its territory. The contested measure is not a measure that is necessitated by reason of changes to the Community rules. Consequently, in the view of the Government of the Republic of Poland, the Council of the European Union did not have the power to extend the restricted scope of payments by way of a decision adopted pursuant to Article 23 of the Act of Accession. In introducing the contested measure, the Council of the European Union has infringed Article 23 of the Act of Accession.

The Government of the Republic of Poland submits further that the contested measure is contrary to the objective of the Accession Treaty of ensuring full assumption by the new Member States of the rights and duties deriving from membership of the European Union and infringes the principle of non-discrimination set out in Articles 12 EC and 34(2) EC, second subparagraph. The Accession Treaty was based on the principle that the new Member States should accede with equal rights, and thus in compliance with the fundamental principle of non-discrimination and equal treatment for producers from the Community of 15 States and for those from the new Member States. That fundamental principle has been limited only in the case of the listed instruments designed to support agricultural producers. The contested measure, by contrast, introduces a divergent principle that is discriminatory in character and under which all direct payments, both present and future, will be made on unequal bases resulting from the mechanism of gradual introduction. The contested measure accordingly results in departures from the principle of non-discrimination and equal treatment within an indeterminate and uncertain area.

The Government of the Republic of Poland also takes the view that, by basing itself as a rule on solutions which in the Accession Treaty were exceptional in nature, the contested measure undermines the negotiating compromise and constitutes an infringement of the principle of good faith. The Government of the Republic of Poland submits that, from the outset of the accession negotiations, it recognised the instrument of gradual introduction as being a solution exceptional in character, covering only the listed support instruments, but not as being a principle for supporting agricultural incomes within the territory of the Republic of Poland.

⁽¹⁾ OJ L 93 of 30.3.2004, p. 1.