

Action brought on 4 October 2006 — Italian Republic v Commission

(Case T-280/06)

(2006/C 294/123)

*Language of the case: Italian***Parties***Applicant:* Italian Republic (represented by: P. Gentili, Avvocato dello Stato)*Defendant:* Commission of the European Communities**Form of order sought**

- annul memorandum No 06626 of 24 July 2006 of the European Commission — Directorate General Regional Policy — Programmes and projects in Cyprus, Greece, Hungary, Italy, Malta and the Netherlands — concerning payments of the Commission which differ from the sum requested. Ref. ROP Sicily Programme (No CCI 1999 IT 61 PO 011);
- annul all related and prior measures, and order the Commission of the European Communities to pay the costs.

Pleas in law and main arguments

The pleas in law and main arguments are similar to those relied on in Case T-345/04 *Italian Republic v Commission* ⁽¹⁾.

⁽¹⁾ OJ C 262 of 23.10.04, p. 55.

Action brought on 6 October 2006 — Spain v Commission

(Case T-281/06)

(2006/C 294/124)

*Language of the case: Spanish***Parties***Applicant:* Kingdom of Spain (represented by: M. Muñoz Pérez)*Defendant:* Commission of the European Communities**Form of order sought**

The Court is asked to:

- annul Commission Decision 2006/554/EC of 27 July 2006 excluding from Community financing certain expenditure incurred by the Member States under the Guarantee Section of the EAGGF in so far as it relates to the subject-matter of this action;
- order the Commission to pay the costs.

Pleas in law and main arguments

By the contested decision, the Commission excluded from Community financing certain expenditure incurred by the Kingdom of Spain in respect of compensatory aid for bananas.

The appropriate correction was made for the alleged existence of weaknesses in quality controls and in the determination of marketed quantities of bananas.

In support of its claims, the applicant State argues that the Commission:

- infringed Articles 2 and 3 of Regulation (EEC) No 729/70 and Article 2 of Regulation (EC) No 1258/1999. It states in that respect that the Spanish authorities correctly applied the provisions of Regulation (EEC) No 1858/93 in force in the years to which the financial correction at issue refer as they were unable to require producers to provide sales invoices for bananas and took into account at the time of calculating the aid a document, the SAD (single administrative document), as evidence of the marketing of bananas. In addition, the Commission has not countered the Spanish authorities' statement to the effect that the quantities of bananas which received aid were in fact marketed, if account is taken of the excess weight which is included in the packaging and other relevant factors.

So far as concerns quality controls, the applicant State asserts that, in accordance with Article 7 and Annex 1 II.B to Regulation (EC) No 2257/94, the quality inspections observed during the Commission's monitoring visit corresponded with those which the experts of the Ministry of Agriculture of the Autonomous Community of the Canaries carry out on producers' organisations to check that their controls are effective, the basic objective of which was not to ensure that the marketed bananas complied with the appropriate quality requirements;

- was in breach of the principle of proportionality by imposing a pro-rata correction, based exclusively on the assessment of a very low level of risk for the EAGGF, rather than adjusting the financial correction so as to take more account of the hypothetical damage suffered by the EAGGF.