



## Reports of Cases

JUDGMENT OF THE COURT (Sixth Chamber)

5 February 2015 \*

(Reference for a preliminary ruling — Agriculture — Common agricultural policy — Regulation (EEC) No 2078/92 — Agricultural production methods meeting the requirements of environmental protection and upkeep of the countryside — Long-term set-aside of agricultural land for purposes connected with the environment — Agri-environmental aid paid to farmers and cofinanced by the European Union — Status as recipient of such aid)

In Case C-498/13,

REQUEST for a preliminary ruling under Article 267 TFEU from the Simvoulio tis Epikratias (Greece), made by decision of 1 August 2013, received at the Court on 16 September 2013, in the proceedings

**Agrooikosystemata EPE**

v

**Ipourgos Oikonomias kai Oikonomikon,**

**Ipourgos Agrotikis Anaptixis kai Trofimon, Periferia Thessalias (Perifereaki Enotita Magnisias),**

THE COURT (Sixth Chamber),

composed of A. Borg Barthet (Rapporteur), acting as President of the Sixth Chamber, E. Levits and F. Biltgen, Judges,

Advocate General: M. Szpunar,

Registrar: A. Calot Escobar,

having regard to the written procedure,

after considering the observations submitted on behalf of:

- Agrooikosystemata EPE, by P. Giatagantzidis, dikigoros,
- Ipourgos Oikonomikon, Ipourgos Agrotikis Anaptixis kai Trofimon and the Hellenic Government, by I. Chalkias and E. Leftheriotou, acting as Agents,
- the European Commission, by J. Aquilina and D. Triantafyllou, acting as Agents,

having decided, after hearing the Advocate General, to proceed to judgment without an Opinion,

\* Language of the case: Greek.

gives the following

### Judgment

- 1 This request for a preliminary ruling concerns the interpretation of Council Regulation (EEC) No 2078/92 of 30 June 1992 on agricultural production methods compatible with the requirements of the protection of the environment and the maintenance of the countryside (OJ 1992 L 215, p. 85) and Commission Regulation (EC) No 746/96 of 24 April 1996 laying down detailed rules for the application of Council Regulation (EEC) No 2078/92 (OJ 1996 L 102, p. 19).
- 2 The request has been made in proceedings between Agrooikosystemata EPE ('Agrooikosystemata') and Ipourgos Oikonomias kai Oikonomikon (Minister for Economy and Finances) and Ipourgos Agrotikis Anaptixis kai Trofimon (Minister for Agricultural Development and Food) and Periferia Thassalias (Perifereaki Enotita Magnisias) (Region of Thessaly, Prefecture of Magnisias), concerning the exclusion of agricultural land, leased by Agrooikosystemata, from the long-term set-aside scheme for agricultural land ('the LTSAS').

### Legal context

#### *Regulation No 2078/92*

- 3 The 2nd, 4th, 10th and 11th recitals in the preamble to Regulation 2078/92 read as follows:

'... measures to reduce agricultural production in the Community must have a beneficial impact on the environment;

...

... an appropriate aid scheme would encourage farmers to serve society as a whole by introducing or continuing to use farming practices compatible with the increasing demands of protection of the environment and natural resources and upkeep of the landscape and the countryside;

...

... because of the scale of the problems such schemes should be applicable to all farmers in the Community who undertake to use farming methods which will protect, maintain or improve the environment and the countryside and to refrain from further intensification of agricultural production;

... it appears ... appropriate to introduce a scheme for long-term set-aside of agricultural land for environmental reasons and for the protection of natural resources;

... the measures provided for in this Regulation must encourage farmers to make undertakings regarding farming methods compatible with the requirements of environmental protection and maintenance of the countryside, and thereby to contribute to balancing the market; ... the measures must compensate farmers for any income losses caused by reductions in output and/or increases in costs and for the part they play in improving the environment'.

4 Article 1 of Regulation No 2078/92 provided:

‘A Community aid scheme part-financed by the Guarantee Section of the European Agricultural Guidance and Guarantee Fund (EAGGF) is hereby instituted in order to:

- accompany the changes to be introduced under the market organisation rules,
- contribute to the achievement of the Community’s policy objectives regarding agriculture and the environment,
- contribute to providing an appropriate income for farmers.

This Community aid scheme is intended to promote:

- (a) the use of farming practices which reduce the polluting effects of agriculture, a fact which also contributes, by reducing production, to an improved market balance;
- (b) an environmentally favourable extensification of crop farming, and sheep and cattle farming, including the conversion of arable land into extensive grassland;
- (c) ways of using agricultural land which are compatible with protection and improvement of the environment, the countryside, the landscape, natural resources, the soil and genetic diversity;
- (d) the upkeep of abandoned farmland and woodlands where this is necessary for environmental reasons or because of natural hazards and fire risks, and thereby avert the dangers associated with the depopulation of agricultural areas;
- (e) long-term set-aside of agricultural land for reasons connected with the environment;
- (f) land management for public access and leisure activities;
- (g) education and training for farmers in types of farming compatible with the requirements of environmental protection and upkeep of the countryside.’

5 Article 2(1) of that regulation provided:

‘Subject to positive effects on the environment and the countryside, the scheme may include aid for farmers who undertake:

...

- (e) to ensure the upkeep of abandoned farmland or woodlands;
- (f) to set aside farmland for at least 20 years with a view to its use for purposes connected with the environment, in particular for the establishment of biotope reserves or natural parks or for the protection of hydrological systems;

...’

6 Article 4(1) of that regulation provided:

‘An annual premium per hectare or livestock unit removed from a herd shall be granted to farmers who give one or more of the undertakings referred to in Article 2 for at least five years, in accordance with the programme applicable in the zone concerned. In the case of set-aside, the undertaking shall be for 20 years.’

7 Article 5 of Regulation No 2078/92 provided:

‘1. In order to achieve the objectives of this Regulation in the context of the general rules referred to in Article 3(4) and/or the zonal programmes, Member States shall determine:

- (a) the conditions for granting aid;
- (b) the amount of aid to be paid, on the basis of the undertaking given by the beneficiary and of the loss of income and of the need to provide an incentive;
- (c) the terms on which the aid for the upkeep of abandoned land as referred to in Article 2(1)(e) may be granted to persons other than farmers, where no farmers are available;

...

2. No aid may be granted under this Regulation in respect of areas subject to the Community set-aside scheme which are being used for the production of non-food products.

...’

8 Regulation No 2078/92 was repealed by Article 55(1) of Council Regulation (EC) No 1257/2000 of 17 May 1999 on support for rural development from the European Agricultural Guidance and Guarantee Fund (EAGGF) and amending and repealing certain Regulations (OJ 1999 L 160, p. 80).

9 Nevertheless, the regulations repealed and provisions deleted under paragraphs 1 and 2 respectively of Article 55 thereof continued to apply to actions approved by the Commission of the European Communities under the regulations before 1 January 2000.

*Regulation No 746/96*

10 Article 1 of Regulation No 746/96 provided:

‘The aid for farmers referred to in Article 2 (1) of Regulation (EEC) No 2078/92 shall be granted in respect of undertakings which have a positive impact on the environment and countryside. Taking into account the objectives set out in Article 1 of the said Regulation, the undertakings must make methods of production more compatible with the requirements of protection of the environment and thus contribute to an improvement in good farming practice.’

*Decision 2000/115/EC*

- 11 Annex I to Commission Decision 2000/115/EC of 24 November 1999 relating to the definitions of the characteristics, the list of agricultural products, the exceptions to the definitions and the regions and districts regarding the surveys on the structure of agricultural holdings (OJ 2000 L 38, p. 1), entitled ‘Definitions and explanations applicable to the list of characteristics to be used for Community surveys on the structure of agricultural holdings’, defines an agricultural holding as follows:

‘A single unit both technically and economically, which has single management and which produces agricultural products. The holding may also provide other supplementary (non-agricultural) products and services.’

- 12 Under point B/01 of that annex:

‘The holder of the holding is that natural person, group of natural persons or the legal person on whose account and in whose name the holding is operated and who is legally and economically responsible for the holding, i.e. who takes the economic risks of the holding. The holder can own the holding outright or rent it or be a hereditary long term leaseholder or a usufructuary or a trustee. All partners on a group holding who take part in the farm work on the holding are considered as being as holders.’

**The dispute in the main proceedings and the question referred for a preliminary ruling**

- 13 Agrooikosystemata is incorporated as a limited liability company, the objects of which are, inter alia, designing and implementing schemes and projects to protect, restore and promote the natural and agricultural environment, developing initiatives and actions to promote environmental protection, carrying out environmental impact studies and studying the implementation of rural development programmes.
- 14 During 1997, Agrooikosystemata leased land with a surface area of 237.4 hectares in the Prefecture of Magnesia with a view to establishing, in particular, biotopes and ecological parks there.
- 15 On 26 January 1998, a land use contract was executed between the head of the Agricultural Development Directorate of that Prefecture, in his capacity as representative of the Ministry of Agricultural Development and Food and Agrooikosystemata within the framework of the LTSAS laid down in Regulation No 2078/92.
- 16 With effect from 1998, the land concerned was entered in the scheme for 20 years. Agrooikosystemata gave various undertakings connected with the supervised realisation of the objectives of that scheme and, in return, received basic financial aid per hectare and additional aid for five years for the creation of a nature reserve.
- 17 In June 2005, the Central Monitoring Committee for the LTSAS on Greek territory took the view that, despite the land’s eligibility for that scheme, Agrooikosystemata did not fulfil the criteria to receive the aid.
- 18 According to that committee, the LTSAS was open only to persons who, at the time of the inclusion of their agricultural land in the scheme, earned an income from agricultural activities on the eligible land, which they would lose as a result of the planned reduction in production or higher production costs.

- 19 Accordingly, natural or legal persons who, at the time of inclusion of their agricultural land in the LTSAS, have suffered no loss of income due to the reconversion of their holding or, in particular, legal persons which were formed to pursue the commercial object of gaining access to the financial aid provided for under the scheme by means of the agricultural land which they have leased or propose to lease for that purpose may not participate in the scheme.
- 20 Taking the view that Agrooikosystimata has been formed as a commercial company, that it has not suffered any loss of income following the inclusion of the land in question in the LTSAS and that the leasing of that land and its inclusion in the scheme were, moreover, for commercial and lucrative purposes, contrary to the provisions of Regulation No 2078/92, the Central Monitoring Committee for the LTSAS decided that that land had been wrongly included in that scheme and should be excluded from it.
- 21 Consequently, by a decision of the Director for Agricultural Development of the Prefectural Administration of Magnesia of 14 November 2007, the land use contract concluded between the Minister for Agricultural Development and Food and Agrooikosystimata was terminated and the land concerned was excluded from the LTSAS.
- 22 Agrooikosystimata lodged an appeal against that decision. Before the Dioikitiko Efeteio Larisas (Administrative Court of Appeal of Larisa), it argues, in particular, that it is apparent from both Article 2(1) of Regulation No 2078/92 and Article 2(1) of Regulation No 746/96, as well as Commission Decision 89/651/EEC of 26 October 1989 relating to the definitions of the characteristics and to the list of agricultural products for the surveys on the structure of agricultural holdings during the period 1988 to 1997 (OJ 1989 L 391, p. 1) and Commission Decision 2000/115 that the beneficiaries of the LTSAS are the landholders, natural or legal persons, whether owners or farmers, irrespective of whether they carry out agricultural activities in holdings already actively used and producing agricultural revenue. According to Agrooikosystimata, it is because of the removal of the possibility of using the land concerned in accordance with its intended use that the financial compensation provided for in Regulation No 2078/92 is paid to the landholder.
- 23 The Dioikitiko Efeteio Larisas takes the view that it is apparent from Regulations Nos 2078/92 and 746/96 that only persons for whom agriculture is their main professional activity and the income which they draw from eligible land holdings reduces as a result of the commitments and restrictions undertaken can participate in the LTSAS. Considering that Agrooikosystimata did not carry out any agricultural activity and suffered no loss of agricultural revenue as a result of the withdrawal of the land concerned, that court held that the company did not meet the conditions enabling it to benefit under the scheme in respect of that land.
- 24 Consequently, the Dioikitiko Efeteio Larisas dismissed the action brought by Agrooikosystimata.
- 25 The appellant in the main proceedings, who submits that that court took as its basis an incorrect interpretation of Regulations Nos 2078/92 and 746/96, lodged an appeal before the referring court.
- 26 Taking the view that the resolution of the dispute before it depends on the interpretation of those regulations, the Simvoulío tis Epikratias (Council of State) decided to stay the proceedings and to refer the following question to the Court for a preliminary ruling:

‘Must those who are to qualify as beneficiaries of the [LTSAS] under [Regulations Nos 2078/92 and 746/96] be farmers or is it sufficient if they assume the financial risk of the land entered in the scheme and are responsible for its management?’

## Consideration of the question referred

- 27 By its question, the referring court asks, in essence, whether the beneficiaries of the LTSAS under Regulations Nos 2078/92 and 746/96 must be farmers or whether it is sufficient if they assume the financial risk of the eligible land and are responsible for its management.
- 28 Before the referring court, Agrooikosystemata disputes the interpretation of Regulations Nos 2078/92 and 746/96 adopted by the Dioikitiko Efeteio Larisas, namely that only persons for whom agriculture is their main professional activity and the income which they draw from the eligible land holdings reduces as a result of the commitments and restrictions undertaken can participate in the scheme.
- 29 In Agrooikosystemata's submission, it is apparent from Article 2(1) of Regulation No 2078/92 which, in its Greek language version, identifies the beneficiaries of the aid scheme instituted under the regulation as being 'κατόχους γεωργικών εκμεταλλεύσεων' (agricultural landholders), that the status of farmer is not required in order to participate in the LTSAS.
- 30 In that regard, Agrooikosystemata argues that that regulation establishes a distinction between the notion of 'έωργοί' (farmers) and that of 'κατόχους γεωργικών εκμεταλλεύσεων' (agricultural landholders). The latter notion, wider than the former, should correspond to the definition in point B/01 of Annex I to Decision 2000/115, namely '[the] natural person, group of natural persons or the legal person on whose account and in whose name the holding is operated and who is legally and economically responsible for the holding, i.e. who takes the economic risks of the holding'.
- 31 It is appropriate to note that there are discrepancies between the different language versions of Article 2(1) of Regulation No 2078/92.
- 32 While the Greek, French, Italian and Dutch language versions of that provision refer to the notion of 'agricultural landholder' in order to identify the beneficiaries of the aid scheme provided for by that regulation, the Spanish, German and English language versions of that provision refer to the notion of 'farmer'.
- 33 In that regard, it must be borne in mind that, in accordance with settled case-law, the provisions of EU law must be interpreted and applied in a uniform manner, in the light of the versions established in all the EU languages and that, where there is a divergence between the various language versions of a text of EU law, the provision in question must be interpreted by reference to the purpose and general scheme of the rules of which it forms part (see judgment in *GSV*, C-74/13, EU:C:2014:243, paragraph 27 and the case-law cited).
- 34 In this case, although the Greek, French, Italian and Dutch versions use, in Article 2(1) of Regulation No 2078/92, the term 'agricultural landholder' rather than the term 'farmer' to designate the beneficiaries of the aid scheme in question, as follows from the general scheme of that regulation, those two notions are equivalent in meaning.
- 35 That is clear from both the preamble to Regulation No 2078/92 which, in each of the language versions referred to in paragraph 32 of this judgment, uses the term 'farmer' instead of the term 'landholder', including when identifying, in its fourth and twelfth recitals in particular, 'farmers' as being the beneficiaries of the aid scheme which it institutes, and Article 1 of that regulation, under which the aid scheme is intended to contribute to providing an appropriate income 'for farmers'.
- 36 That interpretation is corroborated by Article 5(1)(c) of Regulation No 2078/92 concerning abandoned land, from which it is clear that the aid referred to in Article 2(1)(e) of that regulation for the upkeep of abandoned farming or forest land could be granted to persons other than farmers only where no farmers were available.

- 37 The interpretation which follows from the foregoing considerations, that only persons having the status of farmer could seek to participate in the LTSAS, is also in accordance with the objectives pursued by Regulation No 2078/92.
- 38 As follows from the second, tenth and twelfth recitals in the preamble to the regulation, it had instituted a Community aid scheme the main objective of which was to regulate the production of agricultural products (see, to that effect, judgment in *Huber* C-336/00, EU:C:2002:509, paragraph 35).
- 39 Such was, in particular, the objective of the LTSAS by virtue of which financial compensation was paid to farmers who undertook to set aside from their agricultural activity part of their agricultural holding for environmental purposes and the protection of natural resources.
- 40 In that regard, it must be stated that the notion of ‘agricultural activity’, as defined in Article 2(c) of Council Regulation (EC) No 1782/2003 of 29 September 2003 establishing common rules for direct support schemes under the common agricultural policy and establishing certain support schemes for farmers and amending Regulations (EEC) No 2019/93, (EC) No 1452/2001, (EC) No 1453/2001, (EC) No 1454/2001, (EC) 1868/94, (EC) No 1251/1999, (EC) No 1254/1999, (EC) No 1673/2000, (EEC) No 2358/71 and (EC) No 2529/2001 (OJ 2003 L 270, p. 1), which includes maintaining the land in good agricultural and environmental condition, cannot be used to interpret Regulation No 2078/92, given that that notion has been defined in the context of the decoupling of aid from agricultural production, that is to say in a context totally different from that in which the facts at issue in the main proceedings arise. In that context, agricultural aid was still granted in essence on the basis of production volume.
- 41 It follows from the foregoing considerations that only persons who have previously produced agricultural products could participate in the LTSAS.
- 42 That interpretation is corroborated by Annex I to Decision 2000/115, under which ‘[a]ll partners on a group holding who take part in the farm work on the holding are considered as being as holders’, the agricultural land holding being defined as ‘[a] single unit both technically and economically, which has single management and which produces agricultural products’.
- 43 Furthermore, although the Court has held that environmental objectives form part of the objectives pursued by Regulation No 2078/92, it has also stated that the promotion of more environmentally-friendly forms of production — which is certainly a genuine objective — remains an ancillary one (see, to that effect, judgment in *Huber* EU:C:2002:509, paragraphs 32 and 36).
- 44 In those circumstances, it cannot be claimed, as *Agrooikosystimata* seeks to do, that the achievement of the agri-environmental objectives of Regulation No 2078/92 is alone sufficient to justify the aid provided for by that regulation be granted to persons other than farmers.
- 45 Having regard to all the foregoing considerations, the answer to the question referred is that Regulation No 2078/92 must be interpreted as meaning that only persons who have previously produced agricultural products could benefit under the LTSAS provided for in Article 2(1)(f) thereof.

### **Costs**

- 46 Since these proceedings are, for the parties to the main proceedings, a step in the action pending before the national court, the decision on costs is a matter for that court. Costs incurred in submitting observations to the Court, other than the costs of those parties, are not recoverable.



On those grounds, the Court (Sixth Chamber) hereby rules:

**Council Regulation (EEC) No 2078/92 of 30 June 1992 on agricultural production methods compatible with the requirements of the protection of the environment and the maintenance of the countryside must be interpreted as meaning that only persons who have previously produced agricultural products could benefit under the long-term set aside scheme for agricultural land provided for in Article 2(1)(f) thereof.**

[Signatures]