



Press and Information

General Court of the European Union  
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Order of the President of the General Court in Case T-52/12 R  
Greece v Commission

## **The President of the General Court suspends the operation of the Commission decision ordering the recovery of €425 million from Greek farmers**

In January 2009, the Greek Agricultural Insurance Organisation (ELGA) – a public body with the objective of insuring agricultural holdings against damage due to natural risks – paid Greek farmers compensation totalling €425 million for damage that had occurred in 2008 and 2009 as a result of adverse weather conditions.

After being informed of those measures, the European Commission classified them as unlawful State aid incompatible with the internal market by decision of 7 December 2011<sup>1</sup>.

On 8 February 2012, Greece brought an action before the General Court for annulment of that decision. By separate document of 18 May 2012, Greece lodged an application for interim relief, seeking suspension of the operation of the Commission decision until the General Court delivers judgment on the merits of the case.

By an order of 19 September 2012, **the President of the General Court has granted the application for interim relief lodged by Greece**, holding that the necessary conditions are met, that is to say, the application is justified, *prima facie*, in fact and in law and is urgent in nature.

The President finds that **the pleas put forward by Greece are sufficiently pertinent and serious to establish a prima facie case in fact and in law** that justifies not implementing the Commission decision.

In this regard, *prima facie* the amount of €425 million might have to be reduced considerably. First, several tens of million euro of that amount could be considered to constitute *de minimis* aid not affecting competition. Second, Greek farmers themselves financed part of that amount by paying their contributions to ELGA's compulsory insurance scheme; those contributions came to at least €145 million in 2008 and 2009.

As the financial impact of the contested payments on competition therefore seems substantially less than that which the amount adopted by the Commission would have, it cannot be ruled out that those payments were used exclusively to compensate the Greek farmers who had suffered losses of income and not to give an artificial advantage to production and exports. In this context, it must be stressed that, as the Greek agricultural sector consists preponderantly of small family farms, each farmer received on average the sum of roughly €500.

Next, the President of the General Court finds **the presence of urgency**. It is common knowledge that combating tax evasion constitutes one of the absolute priorities for the Greek State in the current economic circumstances. To this end, the State is implementing a fundamental reform of the tax authorities that is designed to modernise and improve the mechanism for tax collection. In so doing, the State legitimately intends, in the short and medium term, to concentrate its resources on the establishment of effective tax authorities that are capable, in particular, of identifying and

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<sup>1</sup> Commission Decision 2012/157/EU of 7 December 2011 concerning compensation payments made by the Greek Agricultural Insurance Organisation (ELGA) in 2008 and 2009 (notified under document C(2011) 7260) (OJ 2012, L 78, p. 21).

pursuing tax avoidance and combating tax fraud. In those circumstances, an obligation on the Greek tax authorities to implement the contested decision, the legality of which will not be definitively determined on the merits until the main proceedings and any appeal proceedings before the Court of Justice have come to a close, could in all probability affect the combating of tax fraud at least partially.

In the light of the extremely difficult general financial situation in Greece, it is easy to foresee that a significant proportion of the 800 000 beneficiaries would refuse to pay voluntarily the sums demanded, necessitating massive intervention on the part of the tax authorities' staff. It is evident that such forcible large-scale collection of tax would prevent the tax authorities to an appreciable extent from devoting themselves to one of their priorities, namely combating tax avoidance and collecting sums shielded from tax that are nearly 100 times greater than the contested payments.

In addition, it is common knowledge that a deterioration of confidence in the public authorities, generalised discontent and a feeling of injustice are features of the current social climate in Greece. In particular, violent demonstrations against the draconian austerity measures adopted by the Greek public authorities are constantly increasing. In those circumstances, the risk that the immediate recovery of the contested payments in the entire agricultural sector may trigger demonstrations liable to degenerate into violence appears neither purely hypothetical nor theoretical or uncertain. It is evident that the perturbation of public order that is brought about by such demonstrations and by the excesses to which, as recent dramatic events have shown, they may give rise would cause serious and irreparable harm which Greece may legitimately invoke.

Accordingly, the President of the General Court, weighing up the various interests involved, holds that, in the exceptional circumstances which currently obtain in relation to the economic and social situation in Greece, priority should be accorded to the interests invoked by that Member State consisting in, first, preserving social peace and preventing social unrest and, second, being able to concentrate the capacities of its tax authorities on the tasks which it regards as paramount for the country.

Consequently, operation of the Commission decision is suspended until the General Court delivers judgment on the main action.

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**NOTE:** The General Court will deliver final judgment on the substance of this case at a later date. An order as to interim measures is without prejudice to the outcome of the main proceedings. An appeal, limited to points of law only, may be brought before the President of the Court of Justice against the decision of the President of the General Court within two months of notification of the decision.

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The [full text](#) of the order is published on the CURIA website.

Press contact: Christopher Fretwell ☎ (+352) 4303 3355