



## **The Court dismisses the Commission actions contesting the Council decisions on the grant of State aid by Lithuania, Poland, Latvia and Hungary for the purchase of agricultural land between 2010 and 2013**

*By adopting the contested decisions, the Council had taken into consideration the substantial change in circumstances linked to the effects in 2008 and 2009 of the economic and financial crisis on those States' agricultural sectors*

EU law provides that the European Commission, in conjunction with the Member States, is to keep under constant review existing systems of aid. It is to propose to them any appropriate measures required by the progressive development or by the functioning of the internal market.

Where the Commission, in the light of the information submitted by the Member State concerned, concludes that an existing aid scheme is not, or is no longer, compatible with the common market, it shall issue a recommendation proposing appropriate measures to that Member State. A Member State which accepts the proposed measures is bound to implement them.

In addition, the Council of the European Union, on application by a Member State, may, acting unanimously, decide that aid which that State is granting or intends to grant is to be considered to be compatible with the internal market, if such a decision is justified by exceptional circumstances.

In the Community agricultural guidelines<sup>1</sup>, the Commission proposed that Member States amend their existing aid schemes for the purchase of agricultural land to conform to those guidelines by 31 December 2009 at the latest. In 2007, Lithuania, Poland, Latvia and Hungary accepted those appropriate measures.

In 2009, those four Member States requested the Council of the European Union to declare compatible with the internal market, until 31 December 2013, aid schemes<sup>2</sup> for the purchase of agricultural land. The Council granted those requests<sup>3</sup>.

By its actions, the Commission requests the Court of Justice to annul the Council decisions.

In today's judgments, the Court dismisses those actions.

The Court examines, first, the plea relied on by the Commission alleging that **the Council lacked competence** to authorise the aid which the Member States had undertaken to eliminate by accepting the appropriate measures proposed by the Commission. The Court recalls the central

<sup>1</sup> The Community guidelines for State aid in the agriculture and forestry sector 2007 to 2013 (OJ 2006 C 319, p. 1).

<sup>2</sup> Amounting, respectively, to a maximum of 55 million Lithuanian litai (LTL), 400 million Polish zloty (PLN), 8 million lati (LVL) and 4000 million Hungarian forint (HUF).

<sup>3</sup> Council Decisions: 2009/983/EU of 16 December 2009 on the granting of a State aid by the authorities of the Republic of Lithuania for the purchase of agricultural land between 1 January 2010 and 31 December 2013 (OJ 2009 L 338, p. 93), 2010/10/EC of 20 November 2009 on the granting of a State aid by the authorities of the Republic of Poland for the purchase of agricultural land between 1 January 2010 and 31 December 2013 (OJ 2010 L 4, p. 89), 2009/991/EU of 16 December 2009 on the granting of State aid by the authorities of the Republic of Latvia for the purchase of agricultural land between 1 January 2010 and 31 December 2013 (OJ 2010 L 339, p. 34) and 2009/1017/EU of 22 December 2009 on the granting of a State aid by the authorities of the Republic of Hungary for the purchase of agricultural land between 1 January 2010 and 31 December 2013 (OJ 2009 L 348, p. 55).

role which the Treaty reserves for the Commission in determining whether aid is incompatible with the internal market. Second, it examines whether the aid declared compatible with the internal market by the Council must be considered to be aid on which the Commission already definitively ruled. It observes in that regard that the appropriate measures proposed by the Commission in the agricultural guidelines concern only existing aid schemes. In the present cases, the schemes authorised by the Council decisions are new aid schemes.

The Court points out, however, that the Council does not have power to authorise a new aid scheme which is indissolubly linked to an existing aid scheme that a Member State has undertaken to modify or abolish by accepting appropriate measures.

In that context the Court states that the Council has power to authorise a new aid scheme similar to an existing aid scheme which a Member State was obliged to amend or eliminate, following acceptance of proposals for appropriate measures, only where new and exceptional circumstances have arisen after those appropriate measures have been proposed.

In the present cases, owing to the substantial change in circumstances linked to the effects of the economic and financial crisis on the agricultural sector, the assessment by the Commission of those aid schemes cannot therefore be considered as prejudicing the assessment which would have been carried out of an aid scheme, containing similar measures, but which would have fallen to be implemented in economic circumstances radically different from those which the Commission took into account in its assessment.

The Court next examines the Commission's argument that the Council **misused its power** by seeking to neutralise the effects of the assessment which it had made of the aid schemes for the purchase of agricultural land introduced by the four Member States. It considers that there is nothing in the file before the Court which makes it possible to assert that the Council pursued an exclusive or main purpose other than that of assisting Lithuanian, Polish, Latvian and Hungarian farmers to purchase agricultural land more easily.

In its actions, the Commission also maintains that the contested decisions were adopted in **breach of the principle of sincere cooperation** between the institutions. According to the Court, the Member States concerned did not make any specific commitments concerning the aid schemes authorised by the contested decisions. Thus, those decisions cannot be regarded as having relieved Lithuania, Poland, Latvia or Hungary of a specific obligation of cooperation in so far as they have not in any way undermined the results of the previous dialogue between the Commission and those Member States.

Furthermore, the Court rejects as unfounded the Commission's argument that the Council committed a **manifest error of assessment** by considering that there were exceptional circumstances which justified the authorised measures. It concludes that, in the light of its unusual and unforeseeable character and the extent of the effects of the economic and financial crisis on the agriculture sector in the Member States concerned, the Council cannot be regarded as having made such an error.

Finally, according to the Commission, the Council **breached the principle of proportionality** when adopting the contested decisions. The Court nevertheless holds that it does not seem manifestly inappropriate for the attainment of the objective sought by the adoption of the contested decisions to authorise the aid schemes in question, which seek to compensate by various means for those problems and the worsening thereof as a consequence of the economic and financial crisis. Also, in the light of the time needed for structural changes in agricultural holdings to occur (in Poland and Latvia), to complete land reform (in Lithuania), to finish the process of privatisation of land (in Hungary) and given the duration of the economic and financial crisis, it cannot be held that the Council opted for a measure which was manifestly disproportionate when authorising the aid schemes concerned for the period from 1 January 2010 to 31 December 2013.

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**NOTE:** An action for annulment seeks the annulment of acts of the institutions of the European Union that are contrary to European Union law. The Member States, the European institutions and individuals may, under certain conditions, bring an action for annulment before the Court of Justice or the General Court. If the action is well founded, the act is annulled. The institution concerned must fill any legal vacuum created by the annulment of the act.

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*The full texts of the judgments ([C-111/10](#), [C-117/10](#), [C-118/10](#) and [C-121/10](#)) are published on the CURIA website on the day of delivery.*

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

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