



Press and Information

Court of Justice of the European Union

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Judgment in Case C-391/13 P  
Greece v Commission

## **The Court confirms the withdrawal from Greece of more than €250 million because of recurrent deficiencies in the sectors of aid for olive oil and for arable crops**

*Greece has not completed the geographical information system for olive cultivation or the land parcel identification system*

Under the rules governing the financing of the common agricultural policy (CAP),<sup>1</sup> the Commission may exclude from EU financing any expenditure that has not been effected in compliance with the rules in force. In those circumstances, it is the task of the Commission to evaluate the amounts to be excluded in the light of the nature and gravity of the infringement and of the financial loss suffered by the EU.

In 2007, inspectors from the Commission carried out two investigations in Greece, which revealed deficiencies in the checks carried out by the national authorities.

In the first place, with regard to **aid for olive oil**, the Commission found that there were such significant deficiencies<sup>2</sup> in the **geographical information system for olive cultivation ('olive cultivation GIS')**, used in Greece for checking aid for olive-oil production, that that system had to be regarded as not having been completed in time for the 2003/2004 marketing year (the period from which the declarations of cultivation were to be checked by means of the olive cultivation GIS). In addition, the Commission found that the obligation to update the olive cultivation GIS had also not been complied with for the 2004/2005 marketing year.

Next, with regard to **direct aid for arable crops**, the Commission found that there were deficiencies in the on-the-spot checks and in the operation of the geographical information system and the land parcel identification system ('LPIS/GIS') and that those deficiencies related to key checks.

By decision of 15 April 2011,<sup>3</sup> the Commission applied to the expenditure declared by Greece corrections exceeding €250 million, namely:

- €133 315 230.85 in respect of the olive oil production sector (2003/2004 and 2004/2005 marketing years)

<sup>1</sup> Regulation (EEC) No 729/70 of the Council of 21 April 1970 on the financing of the common agricultural policy (OJ, English Special Edition, Series I Chapter 1970(I), p. 218), as amended by Council Regulation (EC) No 1287/95 of 22 May 1995 (OJ 1995 L 125, p. 1), and Council Regulation (EC) No 1258/1999 of 17 May 1999 on the financing of the common agricultural policy (OJ 1999 L 160, p. 103) (applicable to expenditure effected as from 1 January 2000).

<sup>2</sup> In order to constitute the olive cultivation GIS, Greece combined the orthophotographs from the 1997/1998 marketing year with declarations of cultivation made specifically for the constitution of the olive cultivation GIS during the 2002/2003 marketing year. Those declarations did not, however, form the subject-matter of cross-checks against the declarations under the previous system, filed for the 2002/2003 marketing year, with the result that significant differences were found between the two data sources.

<sup>3</sup> Commission Implementing Decision 2011/244/EU of 15 April 2011 excluding from European Union financing certain expenditure incurred by the Member States under the Guarantee Section of the European Agricultural Guidance and Guarantee Fund (EAGGF), under the European Agricultural Guarantee Fund (EAGF) and under the European Agricultural Fund for Rural Development (EAFRD) (OJ 2011 L 102, p. 33).

- €3 701 088.51 in respect of expenditure after the expiry of the period set in connection with the establishment of the olive cultivation GIS
- €122 425 959.66 in respect of direct aid for arable crops (2007 declarations)

By judgment of 17 May 2013,<sup>4</sup> the General Court rejected the pleas put forward by Greece against the Commission's decision. It stated accordingly that the 1999 regulation and the Commission guidelines<sup>5</sup> provided a sufficient legal basis for the recurrent nature of the deficiencies in the Greek olive cultivation GIS to be taken into account and for determining the amount to be recovered. The General Court confirmed that the control system applied in Greece had resulted in repeated failures and that that Member State, which had committed similar infringements, was a repeat offender.

The General Court also found that the Commission had not infringed the principle of proportionality. The Commission, was justified in excluding from financing works which had been completed after the expiry of the period set, since Greece had not established that those works had in fact been completed in good time.

Greece then brought an appeal before the Court of Justice. It criticises the General Court for having upheld the flat-rate corrections of 15% applied, on account of recidivism, to expenditure incurred in the olive oil sector for the 2004/2005 marketing year and to expenditure incurred under the system of direct aid for arable crops in respect of the 2007 declarations.

In today's judgment, the Court finds that Greece is in fact seeking to call into question the factual assessments made by the General Court for the purpose of establishing whether the Greek control system in respect of olive oil production presented repeated failures and whether the conditions for increasing the financial correction on account of recidivism were satisfied.

The Court observes that that type of factual appraisal is not permitted in an appeal. Moreover, the Court holds that the General Court took due account of the considerations and evidence submitted by Greece with a view to establishing that the control systems had improved and that the olive cultivation GIS operated in a more efficient manner.

The Court therefore confirms that **the General Court, in the exercise of its exclusive jurisdiction to determine and assess the facts, concluded correctly that the Commission had not made a manifest error** in the assessment of the recurrent nature of the deficiencies and that it was fully entitled to increase the financial correction rate from 10% to 15%. Furthermore, the General Court correctly held that the scale of the corrections was the consequence of the significant increase in expenditure in respect of area-related aid and that the scale of the corrections was merely the result of the same correction rate being applied, as had in the past been applied, to the larger sums that Greece had received as direct aid.

By contrast, Greece has not established that the General Court infringed the principle of proportionality by applying the correction rate set out in the guidelines<sup>6</sup> on the new CAP.

**In consequence, the Court dismisses the appeal brought by Greece and upholds both the judgment of the General Court and the decision of the Commission.**

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**NOTE:** An appeal, on a point or points of law only, may be brought before the Court of Justice against a judgment or order of the General Court. In principle, the appeal does not have suspensive effect. If the appeal is admissible and well founded, the Court of Justice sets aside the judgment of the General Court. Where the state of the proceedings so permits, the Court of Justice may itself give final judgment in the case. Otherwise, it refers the case back to the General Court, which is bound by the decision given by the Court of Justice on the appeal.

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<sup>4</sup> Case [T-294/11](#) *Greece v Commission*.

<sup>5</sup> Document no VI/5330/97 and communication AGRI/61495/2002.

<sup>6</sup> Those guidelines are set out in document no VI/5330/97.

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

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