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Judgment of the Court of Justice in Case C-273/04

Republic of Poland v. Council of the European Union

THE COURT DISMISSES THE ACTION BROUGHT BY POLAND CONTESTING EXTENSION OF THE PHASING-IN SYSTEM FOR DIRECT PAYMENTS TO FARMERS OF THE NEW MEMBER STATES

The contested decision is a necessary adaptation of the Act of Accession following reform of the common agricultural policy and does not infringe the principles of equal treatment and good faith

On 16 April 2003 the Republic of Poland signed the Treaty of Accession. In accordance with the Act of Accession, the Council may make any adaptations to the provisions of that Act relating to the common agricultural policy ('CAP') which may prove necessary as a result of modification of the Community rules. Those adaptations may be made before the date of accession.

When it became necessary to adapt the Act of Accession following the reform of the CAP made by the regulation of 29 September 2003¹, the Council adopted the decision² providing for the application, in the new Member States, of the system of introduction by increments ('phasing-in') according to a schedule³, to all direct payments, in other words not only to the payments already listed in the Annex to that regulation, but also to new direct payments subsequently established.

¹ 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) No 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. as corrected in OJ 2004 L 94, p. 70). This regulation adds, to those already existing, direct support schemes for farmers producing nuts and energy crops and provides for additional payments within the direct support scheme for the dairy sector.

² Council Decision 2004/281/EC of 22 March 2004 adapting the Act concerning the conditions of accession of the Czech Republic, the Republic of Estonia, the Republic of Cyprus, the Republic of Latvia, the Republic of Lithuania, the Republic of Hungary, the Republic of Malta, the Republic of Poland, the Republic of Slovenia and the Slovak Republic and the adjustments to the Treaties on which the European Union is founded, following the reform of the common agricultural policy (OJ 2004 L 93, p. 1).

³ This schedule specifies, for each year concerned until 2013, a percentage for the introduction of direct aid in the new Member States.

The Republic of Poland⁴ considered that that decision was not an adaptation of the Act of Accession, but a substantive alteration of the conditions of accession established in that act, and brought an action for annulment of the decision of the Council⁵. In support of its action that Member State put forward three grounds of complaint, namely, the Council's lack of competence, infringement of the principle of equal treatment and failure to respect the principle of good faith which governs the law of treaties.

The Council's lack of competence

The Court observes first that the adaptation measures provided for by acts of accession, as a general rule, authorise only adaptations intended to render earlier Community measures applicable in the new Member States, to the exclusion of all other amendments.

The Court states that, in the light of the regulation of 1999⁶, the phasing-in system was intended to apply to all the direct payments granted under support schemes referred to in Article 1 of that regulation. The Court holds that the essential criterion determining the scope of that regulation is to be found in the conditions set out in its Article 1 and not in the inclusion of a specific aid in its annex.

The Court then observes that the principle of the general application of the phasing-in system to all direct aid was agreed in the accession negotiations and expressly provided for by the Act of Accession of 2003. It cannot be held that the contested decision introduced a substantive amendment either to the scope of the phasing-in system, or to the fundamental content of the obligations and rights flowing from it, since neither the schedule, nor the percentages, nor the aid concerned were affected.

In those circumstances the Court rules that the contested decision must be held to be a necessary adaptation of the Act of Accession following reform of the CAP and, consequently, in adopting that decision, the Council did not exceed the competence conferred on it by the Act of Accession.

Infringement of the principle of equal treatment

The Court states that the principle of equal treatment requires that comparable situations must not be treated differently and that different situations must not be treated in the same way unless such treatment is objectively justified. However, the fact that the agricultural situation in the new Member States was radically different from that existing in the old Member States justified a gradual application of Community aid, in particular aid under direct support schemes, in order not to disrupt the necessary on-going restructuring in the agricultural sector of the new Member States.

Consequently the Court holds that the applicant is in a situation which is not comparable to that of the old Member States which have unrestricted access to the direct support schemes, and that prevents any valid comparison being made.

⁴ Supported in this case by the Republic of Latvia, the Republic of Lithuania and the Republic of Hungary.

⁵ Supported in this case by the Commission.

⁶ Council Regulation (EC) No 1259/1999 of 17 May 1999 establishing common rules for direct support schemes under the common agricultural policy (OJ 1999 L 160, p. 113), as amended by Council Regulation (EC) No 1244/2001 of 19 June 2001 (OJ 2001 L 173, p. 1).

Infringement of the principle of good faith

The Court holds that the contested decision reproduces the principle and the method of applying the phasing-in system relating to direct payments in the new Member States as they were stated in the Act of Accession, without extending its scope, and consequently that decision cannot be held to be a subversion of the compromise reached in the accession negotiations.

Given that none of the pleas in law put forward by Poland can be upheld, the Court dismisses the action in its entirety.

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Languages available: BG ES CS DE EN FR HU PL PT RO SK SL

*The full text of the judgment may be found on the Court's internet site
<http://curia.europa.eu/jurisp/cgi-bin/form.pl?lang=EN&Submit=rechercher&numaff=C-273/04>
It can usually be consulted after midday (CET) on the day judgment is delivered.*

*For further information, please contact Christopher Fretwell
Tel: (00352) 4303 3355 Fax: (00352) 4303 2731*

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a service provided by the European Commission, Directorate-General Press and
Communications,*

*L-2920 Luxembourg, Tel: (00352) 4301 35177 Fax: (00352) 4301 35249
or B-1049 Brussels, Tel: (0032) 2 2964106 Fax: (0032) 2 2965956*