

Bundesverwaltungsgericht, Urteil vom 19. Februar 2004, - Az. 3 C 22.03 -

In 1996 the plaintiff, a farmer, applied for a compensatory payment for oilseeds (rapeseeds) for an area of 149 ha based on Art. 1 and 10 Council Regulation (EEC) No. 1765/92 of 30 June 1992 (establishing a support system for producers of certain arable crops). His application was dismissed on the ground that the area determined on inspection by the competent authority in June 1996 was 59 ha only. The crops on the remaining 90 ha were withered and not worthy of being harvested. The authority argued that pursuant to Art. 9 Commission Regulation (EEC) No. 3887/92 of 23 December 1992 (laying down detailed rules for applying the integrated administration and control system for certain Community aid schemes) no area-linked aid shall be granted if the determined area is less than 20 % of the declared area.

The applicant brought proceedings submitting that the compensatory payment was not dependent on a minimum yield. Community law only required that the declared area be fully sown until 15 May and the crops be maintained in normal growth conditions in accordance with local standards until 30 June, unless a harvest takes place at the stage of full maturity before that date (Art. 3, 4 Commission Regulation (EC) No. 658/96 of 9 April 1996 on certain conditions for granting compensatory payments under the support system for producers of certain arable crops). These requirements had been fulfilled on an area of 149 ha. The crop failure on 90 ha had been caused by an unusual drought during the growth period not by insufficient maintenance.

The administrative court dismissed the case on the ground that a compensatory payment was dependent on a minimum yield.

The “Bundesverwaltungsgericht”, however, overruled the decision and recommitted the case to the administrative court of appeal with the instruction to establish whether the applicant had maintained the crops in accordance with local standards. The Court held that neither the wording nor the legal background of the relevant community rules permitted the conclusion that a minimum yield was required in order to qualify for a compensatory payment. Pursuant to Art. 9 Commission Regulation (EEC) No. 3887/92 droughts or other kinds of exceptional circumstances and force majeure did not exclude payments as long as the crops were maintained in accordance with the standards locally recognized for these circumstances.

A preliminary ruling procedure was not initiated.