



Press and Information

Court of Justice of the European Union

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Judgment in Case C-11/20

Commission v Greece (Aid to farmers)

## **Greece has failed to fulfil its obligations by failing to recover unlawful aid paid to Greek farmers as compensation for adverse weather conditions**

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

By decision of 7 December 2011, the Commission classified those measures as unlawful State aid incompatible with the internal market.<sup>1</sup> Accordingly, it ordered the Greek authorities to recover them from the beneficiaries.

Greece asked the General Court of the European Union to annul that decision and to suspend its operation pending the delivery of the judgment on the substance of the case. In 2012, the President of the General Court<sup>2</sup> suspended the operation of the decision in so far as it required Greece to recover the incompatible aid from the beneficiaries. However, in 2014, the General Court dismissed the action on the substance.<sup>3</sup> Greece then brought an appeal before the Court of Justice, seeking to have the judgment of the General Court set aside and seeking suspension of the operation of the Commission's decision pending the decision on the appeal. The Court rejected both the application for suspension<sup>4</sup> and the appeal by upholding Greece's obligation to recover the aid.<sup>5</sup>

The Commission takes the view that Greece has not taken all the measures necessary to comply with its decision within the prescribed periods and has not sufficiently informed it of the measures taken pursuant to that decision: it has therefore decided to bring an action for failure to fulfil obligations before the Court

In today's judgment, **the Court upholds the Commission's action for failure to fulfil obligations.**

First of all, it finds that **Greece has not taken**, on the expiry of the period prescribed by the Commission (11 June 2012),<sup>6</sup> **all the necessary measures to recover the unlawful state aid from the beneficiaries.** Indeed, more than eight years after the adoption of the Commission's decision, the Greek authorities have still failed to comply with it.

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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 (OJ 2012 L 78, p. 21).

<sup>2</sup> Order of the President of the General Court of 19 September 2012, Greece v Commission ([T-52/12 R](#), see PR No. [118/12](#)).

<sup>3</sup> Judgment of the General Court of 16 July 2014, Greece v Commission ([T-52/12](#)).

<sup>4</sup> Order of the Vice-President of the Court of 3 December, Greece v Commission ([C-431/14 P R](#)).

<sup>5</sup> Judgment of the Court of 8 March 2016, Greece v Commission ([C-431/14 P](#), see PR No. [26/16](#)).

<sup>6</sup> The period of four months fixed to comply with the Commission's decision would have expired on 9 April 2012. However, in view of the acceptance by the Commission of Greece's request to delay the recovery of the aid by two months, the period expired on 11 June 2012.

Furthermore, the Court notes that **it was not absolutely impossible for Greece to recover the aid**. The administrative or technical difficulties associated with the large number of beneficiaries do not permit the view that it was technically impossible to recover the aid. Moreover, in June 2015, Greece indicated its intention to legislate in order to overcome this administrative difficulty, that is to say three years after the expiry of the abovementioned period.

With regard then to Greece's argument stating that it had not adopted any joint ministerial order for the purposes of recovering amounts above EUR 5 000 because the Commission would have objected to it, the Court points out that that institution had expressed concern about any arbitrary limit below which recovery would not take place. However, such an observation **did not prevent Greece from continuing to amend its legal framework to ensure implementation of the Commission's decision**.

As for the claim that the recovery of the aid would have caused social disorder, the Greek authorities have not demonstrated that the risk of a reaction by the farmers, which would have had consequences for public order with which they could not cope by using the means at their disposal, was real.

Lastly, the Court finds that **Greece has failed to sufficiently inform the Commission of the measures taken pursuant to the decision**.<sup>7</sup>

First, at the time of the closure of the written phase of the present case, Greece had still failed to provide the Commission with the documents demonstrating that the beneficiaries had been ordered to repay the aid. Second, it has not kept the Commission consistently informed of the progress in the adoption of the necessary national measures for the purposes of the full recovery of the aid. Indeed, after communicating in June 2016 that it had not yet adopted recovery measures, Greece did not provide any further information: all of the express requests and reminder letters from the Commission have remained unanswered by Greece.

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**NOTE:** An action for failure to fulfil obligations directed against a Member State which has failed to comply with its obligations under European Union law may be brought by the Commission or by another Member State. If the Court of Justice finds that there has been a failure to fulfil obligations, the Member State concerned must comply with the Court's judgment without delay.

Where the Commission considers that the Member State has not complied with the judgment, it may bring a further action seeking financial penalties. However, if measures transposing a directive have not been notified to the Commission, the Court of Justice can, on a proposal from the Commission, impose penalties at the stage of the initial judgment.

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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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<sup>7</sup> The decision of the Commission requires Greece to provide certain information on the recovery of the aid within two months from the date of its notification. Since the decision was notified on 8 December 2011, that period expired on 8 February 2012. Even assuming that the period of two months had been extended by two months on the basis of the acceptance by the Commission of the abovementioned request, the Greek authorities had still failed to provide the information.