

Case T-216/96

Conserve Italia Soc. Coop. arl
formerly Massalombarda Colombani SpA

v

Commission of the European Communities

(Agriculture — European Agricultural Guidance and Guarantee Fund —
Discontinuation of financial aid — Regulation (EEC) No 355/77 — Regulation
(EEC) No 4253/88 — Regulation (EEC) No 4256/88 — Regulation (EC,
Euratom) No 2988/95 — Principle of legality of penalties — Legitimate
expectations — Misuse of powers — Principle of proportionality —
Statement of reasons)

Judgment of the Court of First Instance (Third Chamber), 12 October
1999 II-3142

Summary of the Judgment

1. *Economic and social cohesion — Structural assistance — Community funding for national projects — Applicants for, and beneficiaries of, EAGGF financial aid required to provide information and to act in good faith*

2. *Community law — Interpretation — Acts of the institutions — Discrepancy between the wording of a provision and the title thereof — Rule that provisions are to be construed in such a way that all the terms employed serve a useful purpose*
3. *Economic and social cohesion — Structural assistance — Community funding — EAGGF financial aid discontinued because of irregularities — Whether permissible (Council Regulation No 4253/88, Art. 24(2))*
4. *Agriculture — Common agricultural policy — Structural reform — Common measures — Improvement of the conditions under which agricultural products are processed and marketed — EAGGF financial aid discontinued for breach of fundamental obligations (Council Regulation No 355/77)*

1. Applicants for, and beneficiaries of, EAGGF financial aid are required to satisfy themselves that they are submitting to the Commission reliable information which is not liable to mislead it; otherwise the system of controls and evidence set up to determine whether the conditions for granting aid are fulfilled cannot function properly. In the absence of reliable information, projects which do not fulfil the conditions required could become the subject of aid. It follows that the obligation on applicants for, and beneficiaries of, aid to provide information and act in good faith is inherent in the EAGGF aid system and essential for its effective functioning.
3. Article 24(2) of Regulation No 4253/88 laying down provisions for implementing Regulation No 2052/88 as regards coordination of the activities of the different Structural Funds between themselves and with the operations of the European Investment Bank and the other existing financial instruments must be construed as meaning that the Commission may discontinue aid from the EAGGF in the event of an irregularity, in particular where a significant change to the operation affecting its nature or the conditions governing its execution is involved, for which the Commission's prior approval has not been sought.
2. Where there is a discrepancy between the wording of a provision and the title thereof, both must be construed in such a manner that all the terms employed serve a useful purpose.
4. The infringement of obligations whose observance is of fundamental importance to the proper functioning of a Community system may be penalised by forfeiture of a right conferred by Community legislation, such as entitlement to aid.

The fact that a beneficiary has failed to comply with its undertaking not to start work on the project in question before receipt of the application for aid by the Commission, failed to inform the Commission of this and, in response to a request for information, forwarded a copy which was not consistent with the original of the contract for the sale of a machine

referred to in the subsidised project constitutes a serious breach of fundamental obligations justifying discontinuance of financial aid from the EAGGF granted pursuant to Regulation No 355/77 on common measures to improve the conditions under which agricultural products are processed and marketed.