

Case T-218/95

Azienda Agricola 'Le Canne' Srl v Commission of the European Communities

(Agriculture — Fisheries — Aquaculture and establishment of protected marine areas — Community financial aid — Declaration of ineligibility of certain expenditure — Action for annulment — Action for damages)

Judgment of the Court of First Instance (Third Chamber), 7 November
1997 II - 2057

Summary of the Judgment

Fisheries — Common structural policy — Development of aquaculture and establishment of protected marine areas — Community financial aid — Commission decision declaring certain expenditure incurred by the recipient to be ineligible — Infringement of the audi alteram partem principle — Failure to consult the Standing Committee on the Fishing Industry — None — Conditions

(Council Regulation No 4028/86, Art. 44(1); Commission Regulation No 1116/88, Art. 7)

In the context of Community financial aid granted under Regulation No 4028/86 on Community measures to improve and adapt structures in the fisheries and aquaculture sector, in respect of modernization works and the establishment of fish-farming installations, a Commission decision declaring certain expenditure to be ineligible on the ground that major modifications had been made to the project originally approved, without prior notification, does not infringe the principle of the right to be heard where the recipient of financial aid was in a position to explain, prior to adoption of the decision, the reasons for non-compliance with the conditions laid down, and where the requirements stipulated in that regard in Article 7 of Regulation No 1116/88 were essentially observed.

Moreover, inasmuch as the Commission was properly entitled to conclude that the expenditure deemed ineligible could not be taken into consideration, since it did not come within the terms of the project approved, such a decision does not constitute a decision to reduce, for the purposes of Article 44(1) of Regulation No 4028/86, the aid originally granted to the recipient, but in actual fact merely notes that a part of the expenditure for which the recipient claims payment does not relate to the project as originally accepted, with the result that the Commission was not required to consult the Standing Committee on the Fishing Industry, as provided for in the abovementioned provision.