

Case T-310/06

Republic of Hungary

v

Commission of the European Communities

(Agriculture — Common organisation of the markets in cereals — Taking-over of cereals by intervention agencies — Upgrading of the quality criteria for maize — Introduction of a new criterion of specific weight for maize — Breach of the principle of protection of legitimate expectations — Manifest error of assessment)

Judgment of the Court of First Instance (Third Chamber, Extended Composition), 15 November 2007 II - 4622

Summary of the Judgment

*1. Actions for annulment — Subject-matter — Partial annulment
(Art. 230 EC; Commission Regulation No 1572/2006)*

2. *Agriculture — Common organisation of the markets — Cereals — Taking-over by intervention agencies — Upgrading of the quality criteria for maize (Art. 253 EC; Commission Regulation No 1572/2006)*

1. Annulment in part of a Community measure is possible only if the elements of which annulment is sought may be severed from the remainder of the measure. That requirement of severability is not satisfied when partial annulment of a measure would have the effect of altering its substance.

The central concern of Regulation No 1572/2006 amending Regulation No 824/2000 establishing procedures for the taking-over of cereals by intervention agencies and laying down methods of analysis for determining the quality of cereals is the raising of the quality of maize accepted for intervention. To that end, the regulation provides two differing kinds of measure, that is to say, on the one hand, the upgrading of the quality criteria for maize laid down in the period before Annex I to Regulation 824/2000, which the applicant does not seek to have annulled, and, on the other, the introduction of a new specific weight criterion for maize in the interests of consistency with the rules applicable to other cereals eligible for intervention. Since those two kinds of measure are not indissociably linked, any annulment in part of Regulation No 1572/2006, in so far as it introduces a new criterion of specific weight for maize, would not alter the actual substance of the provi-

sions that did not form the subject-matter of that annulment. In that regard, unlike the new criterion of specific weight for maize, the quality criteria for maize upgrading of which is provided for by the regulation, namely, the maximum moisture content of maize, the maximum percentage of broken grains and the percentage of grains overheated during drying, unlike the new criterion of specific weight for maize, are those already in existence under the former rules, save the criterion of specific weight.

(see paras 39-41)

2. By introducing a new criterion relating to the specific weight of maize 12 days before Regulation No 1572/2006 amending Regulation No 824/2000 establishing procedures for the taking-over of cereals by intervention agencies and laying down methods of analysis for determining the quality of cereals became applicable, that is to say, at a time when producers had already sown the seeds and when they could no longer influence the specific weight of the crop, the provisions at issue of Regulation No

1572/2006 produce effects on the investments made by the producers concerned in that they make fundamental changes to the conditions for offering maize for intervention. Since the measures at issue were not notified to the farmers concerned in good time, those provisions have infringed the legitimate expectations of the producers concerned.

Moreover, apart from the fact that the complete lack of any reasons given in Regulation No 1572/2006 for the date of its applicability cannot be mitigated by information supplied during the drafting process, the fact that the opening date of the intervention period was 1 November 2006 is no more than a finding of a general nature which cannot be regarded as a specific reason demonstrating the intended effect and enabling the Court to determine, having regard to Article 253 EC, whether the legitimate expectations of the traders concerned were duly respected.

Furthermore, whilst Regulation No 1572/2006 states that quality criteria needed to be upgraded in order to protect intervention products from deterioration and to maintain their suitability for subsequent use, it does not state clearly and expressly that the

introduction of the criterion of specific weight for maize is intended, in addition to the need to ensure consistency with the rules applicable to other cereals, to upgrade the quality criteria for maize. Thus, the regulation does not state that specific weight forms a criterion of quality for maize, and still less does it explain how that factor may be considered to be relevant in evaluating the quality of the maize.

Finally, the Commission's argument that specific weight affects the quality of maize by affecting its nutritional value is not only unsupported by evidence but is contradicted by documents made available to the Court, so that Regulation No 1572/2006 must be regarded as vitiated by a manifest error of assessment.

It follows that the provisions of Regulation No 1572/2006 relating to the criterion of specific weight for maize must be annulled.

(see paras 68, 69, 72, 84, 86, 148, 150, 151, 154-156, 158, 159, 165)