Reports of Cases

JUDGMENT OF THE GENERAL COURT (Fifth Chamber)

10 July 2014*

(EAGGF — Guarantee Section — EAGF and EAFRD — Expenditure excluded from financing — Dried grapes — Wine — Expenditure incurred by Greece — One-off financial correction — Method of calculation — Nature of the accounts clearance procedure — Connection with expenditure financed by the Union)

In Case T-376/12,

Hellenic Republic, represented by I. Chalkias, E. Leftheriotou and S. Papaïoannou, acting as Agents,

applicant,

v

European Commission, represented by D. Triantafyllou and H. Tserepa-Lacombe, acting as Agents,

defendant,

APPLICATION for the annulment of Commission implementing decision 2012/336/EU of 22 June 2012 on excluding from European Union financing certain expenditure incurred by the Member States under the Guarantee Section of the European Agricultural Guidance and Guarantee Fund (EAGGF), under the European Agricultural Guarantee Fund (EAGF) and under the European Agricultural Fund for Rural Development (EAFRD) (OJ 2012 L 165, p. 83) in so far as it concerns the Hellenic Republic for the sector of dried grapes for the financial years 2007, 2008 and 2009, and for the wine sector,

THE GENERAL COURT (Fifth Chamber),

composed of A. Dittrich, President, J. Schwarcz (Rapporteur) and V. Tomljenović, Judges,

Registrar: S. Spyropoulos, Administrator,

having regard to the written procedure and further to the hearing on 9 January 2014,

gives the following

* Language of the case: Greek.

Judgment[2] …

Procedure and forms of order sought by the parties

22 By application lodged at the Court Registry on 21 August 2012, Greece brought the present action.

23 The Hellenic Republic submits that the Court should:

— annul the contested Decision in so far as it concerns the applicant;

— order the Commission to pay the costs.

24 The Commission contends that the Court should:

— dismiss the action;

— order the Hellenic Republic to pay the costs.

Law …

1. 3 . *The correction of expenditure in the wine sector*

150 Greece raises four pleas against the correction of expenditure in the wine sector. According to the third plea of the application, the Commission made financial corrections relating to expenditure incurred more than 24 months previously, failed to observe the principle of legal certainty and curtailed the rights of defence and the right to be heard. The fourth plea alleges a factual error in that the regularisation of areas was carried out in a manner inconsistent with Article 2(3) of Council Regulation (EC) No 1493/1999 of 17 May 1999 on the common organisation of the market in wine (OJ 1999 L 179, p. 1). The fifth plea alleges that the correction and the method of calculation are contrary to Article 31 of Regulation No 1290/2005 and to the guidelines and that it has disproportionate consequences. The sixth plea alleges a factual error with regard to fixing the total area regularised and the average value of planting rights, insufficient statement of reasons and failure to observe the principle of proportionality.

Position of the Commission services on completion of the administrative procedure

151 In the final position of 12 March 2012 the Commission imposed a one-off correction of EUR 21 336 120 on Greece, which was less than the amount proposed in the formal communication of 26 August 2010.

152 With regard to the justification for the correction, it appears from the summary report that the Greek authorities' regularisation of vines illegally planted before 1 September 1998, on the basis of Article 2(3)(a) of Regulation No 1493/1999, is not compliant with the regulatory provisions (point 7.2.1 of the summary report). As there is no working vineyard register, applications for regularising irregular plantings were not processed in such a way as to provide the necessary guarantees for an examination and regularisation pursuant to the provisions of Article 2(3)(a) of Regulation No 1493/1999 as the Greek authorities had not provided evidence that those plantings were in areas which had been grubbed up by the producer who requested regularisation or by his

2 — Only the paragraphs of the present judgment which the Court considers it appropriate to publish are reproduced here.

relatives in the ascending line, that the previous grubbing-up had not given rise to a premium under Union or national law and that the planting rights connected with the grubbing-up had not been sold or transferred by the producers who lodged the claim for regularisation (summary report, point 7.2.1).

153 With regard to the method of calculating the correction, it appears from the summary report that, as it was impossible to calculate exactly the financial impact of the irregularities found, the Commission calculated an amount equivalent to the fee laid down by Article 86(1) and (2) of Council Regulation (EC) No 479/2008 of 29 April 2008 on the common organisation of the market in wine, amending Regulations (EC) No 1493/1999, (EC) No 1782/2003, (EC) No 1290/2005, (EC) No 3/2008 and repealing Regulations (EEC) No 2392/86 and (EC) No 1493/1999 (OJ 2008 L 148, p. 1), that is to say, a fee equivalent to at least twice the average value of the corresponding planting right in the region concerned (summary report, point 7.2.3). In accordance with those provisions, the Commission considered that the accounts clearance procedures were, in certain cases, substituted for the regularisation laid down by Article 86(1) of Regulation No 479/2008, particularly with regard to the regularisations by the Greek authorities on the basis of Article 2(3) of Regulation No 1493/1999, which the Commission considered did not comply with those provisions (summary report, point 7.2.3). The Commission took the view that a method based on the value of planting rights was appropriate for calculating the financial correction which was justified in the light of the perennial risk to the Funds from illegal payments due to the non-regularisation of areas, as provided for by Article 86 of Regulation No 479/2008 (summary report, point 7.2.3).

154 First of all, it is necessary to examine the fifth plea of the application, which alleges that the correction and the method of calculation are contrary to Article 31 of Regulation No 1290/2005 and to the guidelines and that it has disproportionate consequences, as Greece disputes the legal basis on which the financial correction was determined.

Arguments of the parties

155 Greece submits that, in calculating the correction by applying Article 86(1) and (2) of Regulation No 479/2008 by analogy, the Commission acted in a manner which was arbitrary, unjustified and contrary to Article 31 of Regulation No 1290/2005 and to the guidelines. Although, according to the latter article, the Commission can exclude amounts from Union financing, regularisations which do not comply with Article 2(3)(a) of Regulation No 1493/1999 cannot be regarded as expenditure financed by the Funds in breach of Union rules, which may entail correction in the framework of the clearance of accounts. Under Article 31 of Regulation No 1290/2005, a correction may be made which is calculated at a flat rate and is applied to expenditure financed by the Funds. A calculation by analogy with Article 86 of Regulation No 479/2008 is not provided for by any measure relating to the clearance of accounts or by the latter regulation.

156 In addition, Greece submits that the correction is not connected with the omission of a key control or ancillary control, or with expenditure financed by the Fund contrary to Union rules, or with any loss to the Fund occasioned by the omission of a control by the Member State. Furthermore, the fee provided for by Article 86 of Regulation No 479/2008 serves to cover the costs of the Member State responsible for regularisation and cannot reflect a loss caused to the Fund by the fact that illegal plantings were regularised in a way which did not comply with Regulation No 1493/1999. Finally, Greece observes that the correction is disproportionate.

157 The Commission admits that the method of calculating the correction is not provided for, but submits that the accounts clearance procedure may, in accordance with the second subparagraph of Article 86(1) of Regulation No 479/2008, be substituted for the procedures, which were not carried out, for the late regularisation of illegal plantings. The fee provided for by that Article does not aim to

cover the expenditure and the administrative cost incurred by the Member State by reason of the late regularisation of illegal plantings, but depends on the value of the planting right, as Article 86 indicates.

158 The Commission considers that the non-regularised areas will, since they are illegal, generate expenditure to the detriment of the CAP because of the perennial risk of undue payments by the Funds and financial consequences which are impossible to calculate. Therefore the method of calculating the financial correction on the basis of the value of planting rights is appropriate without being arbitrary or unjustified. Indeed, it is based on Regulation No 479/2008 as the fee to compensate for the losses which the Funds will suffer can be derived from the value of the planting rights used to calculate the regularisation fee. The Commission also points out that, as the amount of aid which will be granted in the future is not known, it could not follow its invariable practice regarding flat rate financial corrections and could not take the value of planting rights as a basis. Furthermore, applying Article 86 of the Regulation would have had the advantage of legalising the vines concerned in the same away as by the payment of the regularisation fee, as winegrowers would then be entitled to aid.

Findings of the Court

159 First of all it is necessary to recall the provisions on the basis of which the Commission imposed a one-off financial correction on Greece on the ground that the regularisation, on the basis of Article 2(3)(a) of Regulation No 1493/1999, of vines illegally planted before 1 September 1998, was not in accordance with the rules.

160 Article 2(2) and (3) of Regulation No 1493/1999, as amended by Regulation No 479/2003, reads as follows:

‘2. Grapes obtained from areas:

(a) where vines have been planted before 1 September 1998,

and

(b) whose production, according to Articles 6(3) or 7(4) of Regulation (EEC) No 822/87, could only be disposed of by distillation

may not be used for producing wine which is to be marketed. Products made from such grapes may be put into circulation only for the purposes of distillation. However, these products may not be used in the preparation of alcohol having an actual alcoholic strength by volume of 80% vol or less.

3. Where a Member State has compiled the inventory of wine production potential in accordance with Article 16, it may derogate from paragraph 2 of this Article. Such a derogation shall be granted by 31 July 2008 and shall involve permission being granted for the areas concerned to produce wine which is to be marketed.

The derogation shall be granted:

(a) where the producer concerned had previously grubbed up other vines on an equivalent area in terms of pure crop except in cases where the grower concerned has received a premium for grubbing-up under Community or national legislation in respect of the area concerned;

…’

161 Article 86(1) and (2) of Regulation No 479/2008 provide as follows:

‘1. Producers shall, against the payment of a fee and not later than 31 December 2009, regularise areas planted with vines without a corresponding planting right, where applicable, before 1 September 1998.

Without prejudice to any proceedings under clearance of accounts, the first subparagraph shall not apply to areas regularised on the basis of Article 2(3) of Regulation (EC) No 1493/1999.

2. The fee referred to in paragraph 1 shall be determined by Member States. It shall be equivalent to at least twice the average value of the corresponding planting right in the region concerned.’

162 As appears from paragraph 158 above, the Commission took the view that, in the context of the account clearance procedure, it was right to impose a one-off financial correction equal to the fee against payment of which producers could regularise the areas planted with vines without a corresponding planting right, as laid down by Article 86(1) of Regulation No 479/2008.

163 Secondly, it is necessary to bear in mind the case-law which states that the procedure for clearing accounts presented by Member States for expenditure financed by the Funds serves to determine whether the expenditure was actually and properly incurred (Joined Cases 15/76 and 16/76 *France* v *Commission* [1979] ECR 321, paragraph 28; Case C-247/98 *Greece* v *Commission* [2001] ECR I-1, paragraph 13; and Case C-377/99 *Germany* v *Commission* [2002] ECR I-7421, paragraph 51). Furthermore, in the accounts clearance procedure the Commission is under an obligation to carry out a financial correction if the expenditure in respect of which financing has been requested has not been carried out in accordance with Union rules, such a financial correction being designed to avoid the Funds being burdened with amounts that have not served to finance an objective pursued by the Union legislation in question (Case C-247/98 *Greece* v *Commission*, paragraph 14, and Case C-332/01 *Greece* v *Commission* [2004] ECR I-7699, paragraph 63).

164 In that connection, Article 31(1) of Regulation No 1290/2005, which in essence reproduced Article 7(4) of Regulation No 1258/99, states that, in conformity clearance, if the Commission finds that expenditure as indicated in Article 3(1) and Article 4 has been incurred in a way that has infringed Union rules, it must decide what amounts are to be excluded from Union financing. Article 3(1) and Article 4 of Regulation No 1290/2005 list the items of expenditure financed in shared management between the Member States and the Union, and respectively, by the EAGGF and the EAFRD.

165 It must also be observed that recitals 24 and 26 of Regulation No 1290/2005 stress that expenditure incurred by the Member States should comply with Union legislation with regard to the Commission’s power to take a decision on it and the recovery of payments made by the EAGGF.

166 Finally, the guidelines restrict the Commission’s discretion with regard to determining financial corrections. It is clear from Annex 2 to the guidelines, concerning the financial consequences in the context of the clearance of accounts, that the different levels of flat-rate corrections which it provides for all relate to expenditure declared by the Member States.

167 Therefore it follows from paragraphs 161 to 166 above that the accounts clearance procedure of Article 31(1) of Regulation No 1290/2005 and the financial corrections which follow from it apply only in cases where expenditure was incurred by the Member States and it was financed by the EAGGF or the EAFRD.

168 The submissions in support of the fifth plea of the application must be examined in the light of those considerations.

169 Greece's argument is centred on the idea that the correction which was imposed is contrary to Article 31 of Regulation No 1290/2005 and to the guidelines, on the ground that, in essence, it does not apply to expenditure financed by the Funds in breach of Union rules.

170 The one-off correction made by the Commission has the effect of charging to Greece an amount equivalent to the fee which Article 86(1) and (2) of Regulation No 479/2008 requires to be paid by producers who wish to regularise by 31 December 2009 the areas planted with vines without a corresponding planting right.

171 The object of the fee provided for by Article 86 of Regulation No 479/2008 was to permit the regularisation of illegally planted areas likely to generate illegal expenditure for the Funds, thanks to the payment by the winegrowers concerned of an amount equal to at least twice the value of the planting right corresponding to the regularised area. It does not appear at all from Article 86 or from any other provision of Regulation No 479/2008 that the fee must be borne by the Member State as a consequence of failing in its obligations or of shortcomings in relation to monitoring expenditure financed by the Funds. However, when questioned by way of a measure of organisation of procedure and during the hearing, the Commission accepted that there was no provision in Regulation No 479/2008 or any other Union measure for the method of financial correction used in the present case.

172 Clearly, the financial correction made in the contested decision does not have a sufficient connection with any expenditure whatever financed by the Funds that would have been contrary to the Union rules. Indeed, the correction is directly based on a fee which aims to permit the regularisation of illegal plantings of vines, as provided for by the second paragraph of Article 86(1) of Regulation No 479/2008, which has no connection with the accounts clearance procedure. Therefore such a correction cannot, by virtue of the case-law, be made in the context of an accounts clearance procedure (see paragraphs 163 to 167 above).

173 The various objections raised by the Commission to Greece's arguments do not justify going back on that conclusion.

174 First, while accepting that the method for calculating the correction is not laid down by the rules, the Commission considers that the accounts clearance procedure may, in accordance with the second subparagraph of Article 86(1) of Regulation No 479/2008, replace the procedures for the regularisation of illegal plantings. The Commission considers that the Union legislature's proviso in the abovementioned measure must be regarded as enabling the Commission to apply the first subparagraph of Article 86(1) in an accounts clearance procedure and to charge a Member State the fee laid down by that provision where the producer fails to regularise his illegal plantings against payment of the fee.

175 Chapter I of Title V of Regulation No 479/2008, which relates to production potential, deals with illegal plantings, while Article 86 provides for the compulsory regularisation of illegal plantings carried out before 1 September 1998, which were previously covered by Article 2(2) and (3) of Regulation No 1493/1999. The first subparagraph of Article 86(1) of Regulation No 479/2008 provides that producers must, against the payment of a fee and not later than 31 December 2009, regularise those plantings. The second subparagraph states that, without prejudice to accounts clearance procedures, the first subparagraph does not apply to areas regularised on the basis of Article 2(3) of Regulation (EC) No 1493/1999, which was applicable until 31 July 2008, by virtue of Article 122 of Regulation No 479/2008, Article 86 having entered into force on 1 August 2008.

176 In that context, the second subparagraph of Article 86(1) of Regulation No 479/2008 must be regarded as having the object of regulating the situation of areas regularised on the basis of Article 2(3) of Regulation No 1493/1999 because it states that neither the regularisation nor the fee provided for in the first subparagraph apply to those areas because they had already undergone a regularisation

procedure under the previous system, and that the Commission reserves the right to act upon the unlawful use of the derogation provided for by Article 2(3) of Regulation No 1493/1999 in the context of the accounts clearance procedure.

177 Consequently the Commission's interpretation that the accounts clearance procedure replaces the procedure for the regularisation of illegal plantings (first subparagraph of Article 86(1) of Regulation No 479/2008) cannot be accepted because the clearance of accounts enables action to be taken only in respect of regularisations unlawfully carried out on the basis of Article 2(3) of Regulation No 1493/1999 with regard to expenditure financed by the Funds (see paragraphs 163 to 167 above).

178 In its response to the measures for the organisation of procedure, the Commission also claimed that the second subparagraph of Article 86(1) of Regulation No 479/2008 made it possible to settle the problem of requests for regularisation under Regulation No 1493/1999, which had been refused, and the question of equal treatment of requests which had already been examined and regularisations under Regulation No 479/2008. On the first point, illegally planted vines for which requests for regularisation were rejected by Greece on the basis of Regulation No 1493/1999 were not, as from 1 August 1998, covered by the second subparagraph of Article 86(1) of Regulation No 479/2008, but by the first subparagraph as there was no rule prohibiting a producer from requesting regularisation in return for payment of the fee laid down by the first subparagraph. Regarding the second point, it cannot be accepted that equal treatment should lead to treating in the same way producers whose requests for the regularisation of unlawfully planted areas were submitted under different rules which lay down different criteria for regularisation, such producers not therefore being placed in identical situations.

179 Finally, although the Commission claimed at the hearing that it was faced with a legal vacuum regarding the treatment of plantings illegally regularised on the basis of Article 2(3)(a) of Regulation No 1493/1999, upon which the Commission relies, that argument must be dismissed as in fact totally unfounded because the second subparagraph of Article 86(1) of Regulation No 479/2008 is precisely the provision by means of which the situation of those plantings was taken into consideration, with the result that the expenditure generated by the plantings was refused financing by the Funds.

180 Consequently the Commission's first objection must be dismissed.

181 Secondly, the Commission considers that non-regularised plantings will, because they are illegal, generate expenditure to the detriment of the CAP owing to the perennial risk of payments by the Funds which are not due, and that the financial consequences cannot be precisely calculated. Therefore, according to the Commission, the method of calculating the financial correction based on the value of planting rights is appropriate, without being arbitrary or unjustified. In essence, the Commission submits that it was unable to ascertain the expenditure generated by plantings which were illegally regularised under Article 2(3) of Regulation No 1493/1999 and that the method it has used is appropriate for overcoming the difficulty.

182 First, in its observations letter of 18 February 2009, the Commission stated that, on the basis of Article 31 of Regulation No 1290/2005, it could propose excluding from Union financing part of the expenditure financed by the EAGF. Nevertheless, from that stage of the procedure it gave its entire attention to the problem of vines illegally planted before 1 September 1998. In fact, in its letter it described briefly the irregularities which it assumed occurred in the regularisation process by way of derogations from Article 2(3) of Regulation No 1493/1999, without mentioning at all the control of expenditure generated by illegally planted vines and its potential effect on Union financing.

183 Secondly, it appears from the minutes of the bilateral meeting of 14 September 2009 that the Commission referred to an information meeting which took place at the time of the negotiations concerning reform of the common organisation of the wine markets ('COM wine'), which resulted in the formulation of Article 86 of Regulation No 479/2008 and in the course of which the Commission

set out its approach. It appears form the bilateral meeting that, where the regularisation on the basis of Article 2(3) of Regulation No 1493/1999 of vines which were illegally planted before 1 September 1998 does not comply with Union rules, the financial correction is determined in accordance with Article 86 of Regulation No 479/2008. That approach permits the regularisation of such plantings 'although the nature of the non-compliance has had continuous effects on the wine market dating from the finding of illegal plantings'. In fact, it is also clear from the minutes that the Commission accepted that a recurrent correction could lead, after 31 December 2009, to the grubbing-up of illegally planted vines and that it had sought to reach agreement with Greece on the approach proposed by its departments in order to 'limit the discussion' to the compilation of data on the extent of illegal plantings and to the value of the planting rights serving as the basis for calculating the financial correction.

184 Accordingly, in the course of the bilateral meeting of 4 June 2009 the Commission proposed an approach which it submitted to Greece for approval, aiming to take action on the irregularities in applying the derogations in Article 2(3) of Regulation No 1493/1999 by charging Greece an amount equivalent to the fee laid down by Article 86(1) of Regulation No 479/2008 in return for regularisation of the vines which were planted illegally.

185 Third, in its formal communication of 26 August 2010, the Commission maintained its position regarding non-compliance with the prohibition of the planting of vines without a planting right and the non-conformity of the application, in the present case, of Article 2(3) of Regulation No 1493/1999 with the Union rules. The Commission informed Greece of is decision to propose, in the light of Article 86(1) of Regulation No 479/2008, a single financial correction, not a recurrent correction, in spite of the continuing effects on the wine market. The Commission then went on to examine the irregularities regarding the incorrect allowance of the derogations laid down in Article 2(3) of Regulation No 1493/1999. Because of this, the Commission expressly refused to consider making a financial correction to the expenditure financed by the Funds and generated by the irregularities in question.

186 Fourth, in the summary report the Commission stated that, as it was impossible to calculate exactly the financial impact of the irregularities found in implementing Article 2(3) of Regulation No 1493/1999, a method based on the value of the planting rights was appropriate for calculating the amount of the financial correction which was justified in relation to the perennial risk to the Funds of illegal payments due to the non-regularisation of vines, the accounts clearance procedures being substituted in certain cases for regularisation under Article 86(1) of Regulation No 479/2008 (summary report, point 7.2.3).

187 However, while the Commission recognised that it was impossible to calculate exactly the financial impact of the irregularities found, it must be observed that, before the observations letter of 18 February 2009 was sent, the Greek authorities had sent the Commission the data which showed the areas regularised by the application of Article 2(3) of Regulation No 1493/1999 for each of the nomes concerned. That fact puts the Commission's argument into its context because, contrary to what the Commission says, on the basis of the data received, it was able to ask the Greek authorities to determine, for each nome, the areas incorrectly regularised and the aid which had been paid in the context of the COM wine for those areas or, at least, the total aid paid in that connection for each nome.

188 It follows from paragraphs 182 to 187 above that, in the accounts clearance procedure, the Commission did not seek to evaluate the expenditure financed by the Funds as a result of the irregularities found whereas, contrary to the Commission's submissions, the financial consequences were not necessarily impossible to calculate.

189 Therefore the Commission's second objection must be dismissed.

190 Third, the Commission submits that the method of calculating the financial correction based on the value of planting rights is appropriate, as the flat-rate amount compensating for the losses which the Funds will suffer can be taken from the value of the planting rights which is used to calculate the regularisation fee. The Commission also observes that, as the amount of aid which may be granted in the future is unknown, the Commission could not follow its established practice in relation to flat-rate financial corrections and could only take the value of planting rights as a basis.

191 First, it is necessary to refer to paragraphs 182 to 187 above, from which it appears that the Commission did not seek to determine the amount of the losses to the Funds generated by irregularly regularised vines pursuant to Article 2(3) of Regulation No 1493/1999, although it possessed data which enabled it to embark on that course in the context of the accounts clearance procedure provided for by Article 31(1) of Regulation No 1290/2005. In addition, the argument that it was impossible to know the level of aid that might be granted in the future is not relevant because, on the basis of the data supplied by the Greek authorities, it was possible to determine the areas which had received aid unlawfully in the 24 months preceding the observations letter of 18 February 2009, in accordance with the rule of Article 31(4)(a) of Regulation No 1290/2005, which the Commission accepted at the hearing.

192 Secondly, although it was in fact impossible for the Commission to determine exactly the amount of aid unlawfully paid by reason of irregularly planted vines pursuant to Article 2(3)(a) of Regulation No 1493/1999, it could have applied the flat-rate corrections provided for by the guidelines, taking as a basis for calculation, in each nome, the aid paid in the framework of the COM wine to all producers and by applying the percentage correction which it considered appropriate.

193 Consequently the third objection raised by the Commission must be dismissed.

194 Fourth, the Commission claims that applying Article 86 of Regulation No 479/2008 would have had the advantage of legalising illegally planted vines in the same way as by the payment of the regularisation fee, so that the winegrowers could then receive aid.

195 That argument is erroneous in law in two respects.

196 First, at the date when the financial correction was made, namely the date of the contested decision, 22 June 2012, it was no longer possible, on the basis of Article 86(1) of Regulation No 479/2008, to regularise illegally planted vines as the deadline for that measure was 31 December 2009, which the Commission expressly accepted at the hearing.

197 Secondly, regularisation under Article 86(1) was possible only if the producer paid the Member State concerned the fee laid down. On the other hand, the Regulation makes no provision for the possibility of regularising illegally planted vines by means of the payment by the Member State concerned of an amount equivalent to that fee to the Commission in the framework of the clearance of accounts since the reservation in the second subparagraph of Article 86(1) could not have such a scope (see paragraphs 175 to 179 above).

198 Therefore it cannot be argued in law that a financial correction consisting in the payment to the Commission by the Member State concerned of an amount equivalent to the fee in Article 86 of Regulation No 479/2008 permits the regularisation of illegally planted vines because the Commission cannot show that that means of regularisation is permitted by any legal measure of the Union.

199 Therefore the Commission's fourth objection must be dismissed.

200 It follows from paragraphs 159 to 199 above that the fifth plea is well founded as the Commission made a financial correction which was not connected with expenditure financed by the Funds, and taking an approach which has no legal basis (see paragraphs 175 to 179 above) and which is directly contrary to Article 31 of Regulation No 1290/2005 and to the second subparagraph of Article 86(1) of Regulation No 479/2008 (see paragraphs 163 to 165, 176 and 177 above).

201 Consequently the contested decision must be annulled in so far as it applies to Greece a one-off financial correction in the wine sector and the application must be dismissed as to the remainder, without it being necessary to give a ruling on the third, fourth and sixth pleas of the application.

Costs …

On those grounds,

THE GENERAL COURT (Fifth Chamber)

hereby:

1. **Annuls Commission implementing decision 2012/336/EU of 22 June 2012 on excluding from European Union financing certain expenditure incurred by the Member States under the Guarantee Section of the European Agricultural Guidance and Guarantee Fund (EAGGF), under the European Agricultural Guarantee Fund (EAGF) and under the European Agricultural Fund for Rural Development (EAFRD) in so far as it applies to Greece a one-off financial correction in the wine sector;**

2. **Dismisses the action as to the remainder;**

3. **Orders each party to bear its own costs.**

Dittrich Schwarcz Tomljenović

Delivered in open court in Luxembourg on 10 July 2014.

[Signatures]