Case 214/86 R

Hellenic Republic
v
Commission of the European Communities

(EAGGF, Guarantee Section — Clearance of accounts)

Order of the President of the Court, 25 August 1986 2505

Summary of the Order

Application for the adoption of interim measures — Powers conferred on the President by Article 84 (2) of the Rules of Procedure
(EEC Treaty, Art. 185; Rules of Procedure, Arts 83 and 84 (2))

ORDER OF THE PRESIDENT OF THE COURT
25 August 1986 *

In Case 214/86 R

Hellenic Republic, represented by its Agents, V. Zorbas, Legal Assistant in the Ministry of Economic Affairs, and M. Tsotsanis, Legal Adviser in the Ministry of Agriculture, with an address for service in Luxembourg at the office of Mr Giannopoulos, Ambassador of Greece, 117, Val-Sainte-Croix,

applicant,

* Language of the Case: Greek.

Commission of the European Communities, represented by its Agents, T. Christoforou and D. G. Lawrence, members of its Legal Department, with an address for service in Luxembourg at the office of G. Kremlis, Jean Monnet Building,

defendant,

APPLICATION for suspension of the operation of Commission Decision No 86/475 of 20 June 1986 on the clearance of the accounts presented by the Hellenic Republic in respect of the European Agricultural Guidance and Guarantee Fund, Guarantee Section, expenditure for 1982,

THE PRESIDENT OF THE COURT OF JUSTICE
OF THE EUROPEAN COMMUNITIES

makes the following

ORDER

1 On 20 June 1986, the Commission adopted, under Article 5 (2) of Council Regulation No 729/70 of 21 April 1970 on the financing of the Common Agricultural Policy (Official Journal, English Special Edition 1970 (I), p. 218), Decision No 86/475 on the clearance of the accounts presented by the Hellenic Republic in respect of the European Agricultural Guidance and Guarantee Fund, Guarantee Section, expenditure for 1982.

2 In that decision, the Commission stated that part of the expenditure declared, namely 8 195 027 084 DR, did not fulfil the necessary conditions and therefore could not be charged to the EAGGF, Guarantee Section.

3 By an application lodged at the Court Registry on 6 August 1986, the Hellenic Republic brought an action under the first paragraph of Article 173 of the EEC Treaty for a declaration that that decision is void.

4 By an application lodged at the Court Registry on 6 August 1986, the applicant, acting under Article 185 of the EEC Treaty, Article 36 of the Statute of the Court of Justice and Article 83 of the Rules of Procedure, sought suspension of the operation of Commission Decision No 86/475 until the 30th day following service of the Court's judgment on the main application.

5 The applicant, in its application for interim measures, emphasizes that there is an urgent need to obtain suspension of the operation of the decision No 86/475 since the Commission intends to proceed with the immediate implementation thereof on 25 August 1986 by deducting the amounts which that decision refused to charge to the EAGGF, Guarantee Section, in respect of expenditure for 1982 from the amounts which the Commission is to pay on that date for the purpose of financing aid in the framework of the common agricultural policy.

6 In reply to a question put to it on 20 August 1986 by the President of the Court, the Commission stated that for technical reasons it had not been possible, in the case of three Member States, including Greece, to give effect to the decisions clearing the accounts for 1982 when the advance payment for August 1986 was fixed and that it had adopted a decision on 19 August 1986 concerning the advance payment for September which applied to those three Member States, including Greece, the financial consequences flowing from the clearance of the 1982 accounts.

7 It thus appears that by means of its decision fixing the advance payment for September, adopted on 19 August 1986, the Commission intends to implement Decision No 86/475 and will deduct from the advance payment for September 1986 the 8 195 027 084 DR which the latter decision did not accept as chargeable to the EAGGF, Guarantee Section.

8 According to Article 84 (2) of the Rules of Procedure, the President may grant an application for interim measures even before the observations of the opposite party have been submitted. That decision may be varied or cancelled even without any application being made by any party.

9 In this case, it is desirable to be aware of the Commission's written observations before ruling on the application for interim measures. Under those circumstances and having regard to the particular characteristics of the dispute, it is necessary, as a precautionary measure, in the interests of the proper administration of justice to suspend, until the order terminating the present application for interim measures has been made, operation of Decision No 86/475, which would otherwise be implemented, according to the information supplied by the Commission, by means of the decision concerning the advance payment for September which it adopted on 19 August 1986.

On those grounds,

THE PRESIDENT,

by way of interim decision,

hereby orders as follows:

(1) Application of Commission Decision No 86/475 of 20 June 1986 on the clearance of the accounts presented by the Hellenic Republic in respect of the European Agricultural Guidance and Guarantee Fund, Guarantee Section, expenditure for 1982 by means of the decision providing for the advance payment for September adopted by the Commission on 19 August is suspended, as a precautionary measure, until the order terminating the present proceedings for interim measures has been made.

(2) The proceedings for interim measures shall continue. The Commission must submit its written observations not later than 29 August 1986.

(3) Costs are reserved.

Luxembourg, 25 August 1986.

P. Heim
Registrar

A. J. Mackenzie Stuart
President