Reports of Cases

JUDGMENT OF THE COURT (Fifth Chamber)

10 July 2025 *

(Reference for a preliminary ruling – Common agricultural policy – Regulation (EU) No 1307/2013 – Practices beneficial for the climate and the environment – Implementing Decision (EU) 2022/484 – Validity – Obligation to state reasons – Invasion of Ukraine by Russia – Increase in the agricultural production potential of the European Union – Derogation from certain conditions relating to the direct greening payment – Land lying fallow considered as a distinct crop and ecological focus area even if it has been grazed, harvested for production purposes or cultivated – Necessary and justifiable nature of the measures adopted)

In Case C-287/24,

REQUEST for a preliminary ruling under Article 267 TFEU from the Conseil d'État (Council of State, Belgium), made by decision of 11 April 2024, received at the Court on 23 April 2024, in the proceedings

Ligue royale belge pour la protection des oiseaux ASBL

v

Région wallonne,

THE COURT (Fifth Chamber),

composed of M.L. Arastey Sahún, President of the Chamber, D. Gratsias (Rapporteur), E. Regan, J. Passer and B. Smulders, Judges,

Advocate General: L. Medina,

Registrar: A. Calot Escobar,

having regard to the written procedure,

after considering the observations submitted on behalf of:

– Ligue royale belge pour la protection des oiseaux ASBL, by A. Lebrun and B. Legros, avocats,

– the Belgian Government, by P. Cottin, C. Pochet and L. Van den Broeck, acting as Agents, and by P. Moërynck, avocat,

* Language of the case: French.

– the Italian Government, by G. Palmieri, acting as Agent, and by L. Vignato, avvocata dello Stato,

– the European Commission, by A.C. Becker and C. Perrin, acting as Agents,

having decided, after hearing the Advocate General, to proceed to judgment without an Opinion,

gives the following

Judgment

1 This request for a preliminary ruling concerns the validity of Commission Implementing Decision (EU) 2022/484 of 23 March 2022 providing for derogations from Regulation (EU) No 1307/2013 of the European Parliament and of the Council and from Commission Delegated Regulation (EU) No 639/2014 as regards the implementation of certain conditions relating to the greening payment for claim year 2022 (OJ 2022 L 98, p. 105).

2 The request has been made in proceedings between Ligue royale belge pour la protection des oiseaux ASBL (Belgian Royal League for the Protection of Birds; 'the League') and the Région wallonne (Walloon Region, Belgium) concerning an order adopted by the latter on the basis of Implementing Decision 2022/484, the validity of which the League disputes.

Legal context

European Union law

Regulation No 1307/2013

3 Article 4 of Regulation (EU) No 1307/2013 of the European Parliament and of the Council of 17 December 2013 establishing rules for direct payments to farmers under support schemes within the framework of the common agricultural policy and repealing Council Regulation (EC) No 637/2008 and Council Regulation (EC) No 73/2009 (OJ 2013 L 347, p. 608), as amended by Regulation (EU) 2017/2393 of the European Parliament and of the Council of 13 December 2017 (OJ 2017 L 350, p. 15) ('Regulation No 1307/2013'), headed 'Definitions and related provisions', provided, in paragraph 1:

'For the purposes of this Regulation, the following definitions shall apply:

…

(f) "arable land" means land cultivated for crop production or areas available for crop production but lying fallow …

…'

4 Title III of Regulation No 1307/2013, headed 'Basic payment scheme, single area payment scheme and related payments', comprised five chapters. Chapter 3 of that title, headed 'Payment for agricultural practices beneficial for the climate and the environment', contained, inter alia, Articles 43, 44 and 46 of that regulation.

5 Article 43 of that regulation, headed 'General rules', provided, in paragraphs 1 and 2:

'1. Farmers entitled to a payment under the basic payment scheme or the single area payment scheme shall observe, on all their eligible hectares within the meaning of Article 32(2) to (5), the agricultural practices beneficial for the climate and the environment referred to in paragraph 2 of this Article or the equivalent practices referred to in paragraph 3 of this Article.

2. The agricultural practices beneficial for the climate and the environment shall be the following:

(a) crop diversification;

(b) maintaining existing permanent grassland; and

(c) having ecological focus area on the agricultural area.'

6 Article 44 of that regulation, headed 'Crop diversification', was worded as follows:

'1. Where the arable land of the farmer covers between 10 and 30 hectares and is not entirely cultivated with crops under water for a significant part of the year or for a significant part of the crop cycle, there shall be at least two different crops on that arable land. The main crop shall not cover more than 75% of that arable land.

Where the arable land of the farmer covers more than 30 hectares and is not entirely cultivated with crops under water for a significant part of the year or for a significant part of the crop cycle, there shall be at least three different crops on that arable land. The main crop shall not cover more than 75% of that arable land and the two main crops together shall not cover more than 95% of that arable land.

…

4. For the purposes of this Article, a "crop" means any of the following:

(a) a culture of any of the different genera defined in the botanical classification of crops;

(b) a culture of any of the species in the case of *Brassicaceae, Solanaceae*, and *Cucurbitaceae*;

(c) land lying fallow;

(d) grasses or other herbaceous forage.

…'

7 Article 46 of Regulation No 1307/2013, headed 'Ecological focus area', provided:

'1. Where the arable land of a holding covers more than 15 hectares, the farmer shall ensure that, from 1 January 2015, an area corresponding to at least 5% of the arable land of the holding that the farmer declared in accordance with point (a) of the first subparagraph of Article 72(1) of Regulation [No 1306/2013] and, if they are considered to be ecological focus area by the Member State in accordance with paragraph 2 of this Article, including the areas mentioned in points (c), (d), (g), (h), (k) and (l) of that paragraph is ecological focus area.

…

2. By 1 August 2014, Member States shall decide that one or more of the following are to be considered to be ecological focus area:

(a) land lying fallow;

…

9. The [European] Commission shall be empowered to adopt delegated acts in accordance with Article 70:

(a) laying down further criteria for the types of areas referred to in paragraph 2 of this Article to qualify as ecological focus area;

…'

8 Title VII of that regulation, headed 'Final provisions', comprised three chapters. Chapter 1 of that title, headed 'Notifications and emergency', contained, inter alia, Article 69 of that regulation, itself headed 'Measures to resolve specific problems'. That article provided:

'1. In order to resolve specific problems, the Commission shall adopt implementing acts which are both necessary and justifiable in an emergency. Such implementing acts may derogate from provisions of this Regulation, to the extent and for such a period as is strictly necessary. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 71(2).

2. Where duly justified imperative grounds of urgency so require, and in order to resolve such specific problems while ensuring the continuity of the direct payments system in the case of extraordinary circumstances, the Commission shall adopt immediately applicable implementing acts in accordance with the procedure referred to in Article 71(3).

3. Measures adopted under paragraph 1 or 2 shall remain in force for a period not exceeding twelve months. If after this period the specific problems referred to in those paragraphs persist, the Commission may, in order to establish a permanent solution, submit an appropriate legislative proposal.

…'

Delegated Regulation No 639/2014

9 Commission Delegated Regulation (EU) No 639/2014 of 11 March 2014 supplementing Regulation (EU) No 1307/2013 of the European Parliament and of the Council establishing rules for direct payments to farmers under support schemes within the framework of the common agricultural policy and amending Annex X to that Regulation (OJ 2014 L 181, p. 1), as amended by Commission Delegated Regulation (EU) 2018/1784 of 9 July 2018 (OJ 2018 L 293, p. 1) ('Delegated Regulation No 639/2014'), contained a Chapter 3, headed 'Greening', which comprised four sections. Section 4 of that chapter, headed 'Ecological focus area', contained, inter alia, Article 45 of that delegated regulation, which was adopted on the basis of Article 46(9)(a) of Regulation No 1307/2013. Article 45 was headed 'Further criteria for the types of ecological focus area' and provided:

'1. For the qualification of the types of areas listed in the first subparagraph of Article 46(2) of [Regulation No 1307/2013] as ecological focus areas, paragraphs 2 to 11 of this Article shall apply.

2. On land lying fallow and land lying fallow for melliferous plants (pollen- and nectar-rich species) there shall be no agricultural production. Member States shall fix a period during which the land must be lying fallow in a given calendar year. That period shall not be shorter than 6 months. …

…

10b. The use of plant protection products shall be prohibited on all areas referred to in paragraphs 2, 9 and 10 as well as on areas with agricultural production referred to in paragraph 7.

…'

Implementing Decision 2022/484

10 Recitals 1 to 9 of Implementing Decision 2022/484, adopted on the basis of Article 69(1) of Regulation No 1307/2013, state:

'(1) Title III, Chapter 3, of [Regulation No 1307/2013] provides for payment for agricultural practices beneficial for the climate and the environment ("greening payment"). Those practices include crop diversification pursuant to Article 43(2), point (a) and ecological focus areas pursuant to Article 43(2), point (c), of that Regulation. Further rules on those practices are laid down in Chapter 3 of [Delegated Regulation No 639/2014].

(2) Article 44(4) of [Regulation No 1307/2013] establishes that, for the purposes of crop diversification, land lying fallow is counted as a different crop from grasses or other herbaceous forage. This implies that land that has been grazed or harvested for production purposes cannot be counted as land lying fallow.

(3) Article 46(2), first subparagraph, point (a), of [Regulation No 1307/2013], establishes that areas under land lying fallow may be considered as ecological focus areas. Article 45(2) of [Delegated Regulation No 639/2014] requires an absence of agricultural production, and Article 45(10b) of that Regulation prohibits the use of plant protection products, on land lying fallow qualifying as an ecological focus area.

(4) Russia's invasion of Ukraine on 24 February 2022 has triggered a sharp commodity price surge and has an impact on the supply and demand for agricultural products. In order to address this situation, the Union agricultural production potential both for food and feed supply should be increased.

(5) Land laying fallow areas remain arable land areas suitable for crop production that, albeit to varying degrees depending on their conditions such as soil quality, could be used immediately to produce food and feed. Therefore, in order to allow farmers to make use as much as possible of their available areas for the purpose of food production and feeding animals, Member States should be authorised to derogate from conditions relating to the greening payment, including the use of plant protection products, for claim year 2022 as regards land lying fallow which has been declared to meet the crop diversification or ecological focus area requirements in accordance with Article 44(4) and Article 46(2), first subparagraph, point (a), of [Regulation No 1307/2013], respectively.

(6) This Decision should only provide for derogations to the crop diversification and ecological focus area obligations to the extent and for such a period as is strictly necessary. The derogations should be limited to claim year 2022 and aimed at addressing the impact on the supply and demand for agricultural products by allowing for an increase of the total arable land area available for the production of food and feed.

(7) When deciding on the application of the derogations, those Member States should take due account of the objectives of the agricultural practices beneficial for the climate and the environment and, in particular, the need for sufficient protection of soil quality and quality of natural resources and biodiversity, especially during the most sensitive periods for flowering and nesting birds.

(8) In order to ensure that the derogations authorised by this Decision are effective with a view to the objectives pursued, i.e. a mitigation of rising commodity prices and the impact on the supply and demand, Member States should take their decisions on the application of the derogations within 21 days from the date of notification of this Decision, and should notify the Commission of those decisions taken within 7 days after the date on which the decisions were taken.

(9) In order to enable the Commission to monitor the correct application of the derogations provided hereby as well as their impact, Member States should provide information on the number of holdings and hectares covered by the derogations. That information should be made available to the Commission by 15 December 2022 using the existing notification instruments.'

11 Article 1 of that implementing decision, headed 'Decisions derogating from certain conditions relating to the greening payment for claim year 2022', provides:

'1. By way of derogation from Article 44(4) of [Regulation No 1307/2013], for claim year 2022, Member States may decide that land lying fallow is considered as a distinct crop even though such land has been grazed or harvested for production purpose or has been cultivated.

2. By way of derogation from Article 45(2) of [Delegated Regulation No 639/2014], for claim year 2022, Member States may decide that land lying fallow is considered as ecological focus area

pursuant to Article 46(2), first subparagraph, point (a), of [Regulation No 1307/2013] even though such land has been grazed or harvested for production purpose or has been cultivated. …

By way of derogation from Article 45(10b) of [Delegated Regulation No 639/2014], where Member States make use of the derogation referred to in the first subparagraph of this paragraph, they may also decide to allow for the use of plant protection products on those areas where grazed or harvested for production purpose or where cultivated.'

12 Article 2 of that implementing decision, headed 'Time limit', provides:

'The decisions referred to in Article 1 shall be taken within 21 days from the date of notification of this Decision.'

13 As set out in Article 3 of that implementing decision, headed 'Notifications':

'1. Member States shall notify the Commission of the decisions taken pursuant to Article 1 within 7 days after the date on which the decisions were taken.

2. By 15 December 2022, Member States shall notify the Commission of the number of holdings which used the derogations provided for in Article 1 and the number of hectares where those derogations have been applied.'

Belgian law

14 Article 2(1) and (2) of the order of the Walloon Government of 12 May 2022 providing for derogations from certain conditions relating to land lying fallow for 2022 (*Moniteur belge* of 19 May 2022, p. 43644; 'the order of 12 May 2022') provides:

'1. In accordance with Article 1 of [Implementing Decision 2022/484], the following provisions are adopted for the year 2022:

1° by way of derogation from Article 44(4) of [Regulation No 1307/2013], land lying fallow that has been grazed, harvested for production purposes or cultivated shall be considered as a distinct crop;

2° by way of derogation from Article 45(2) of [Regulation No 639/2014], land lying fallow that has been grazed, harvested for production purposes or cultivated shall be considered as ecological focus area;

2. For the purpose of applying paragraph 1, the cultivation of land lying fallow shall be authorised for the following crops:

1° grain maize …;

2° green maize …;

3° clover …;

4° lucerne …;

5° black medic …;

6° birdsfoot trefoil …;

7° sainfoin …;

8° soya …;

9° winter broad and field beans …;

10° spring broad and field beans …;

11° sweet lupin …;

12° winter mixtures of pulses and cereals or other species …;

13° spring mixtures of pulses and cereals or other species …;

14° winter field peas …;

15° spring field peas …'

The dispute in the main proceedings and the question referred for a preliminary ruling

15 By application lodged on 18 July 2022 before the Conseil d'État (Council of State, Belgium), which is the referring court, the League sought the annulment of the order of 12 May 2022.

16 In support of its application, the League argues that Implementing Decision 2022/484, on the basis of which the order of 12 May 2022 was adopted, is contrary to, first, Regulation No 1307/2013 and, second, Article 45(2) and (10b) of Delegated Regulation No 639/2014.

17 To that extent, the League asked the referring court to refer questions to the Court of Justice for a preliminary ruling on whether Implementing Decision 2022/484 is 'compliant with Article 69 of Regulation No 1307/2013, combined with Article 45 of Delegated Regulation No 639/2014'.

18 In that regard, the League submits that it is not apparent from recital 4 of Implementing Decision 2022/484 that the Commission had established the existence of 'imperative grounds of urgency', within the meaning of Article 69(2) of Regulation No 1307/2013. In addition, the principle of proportionality and Article 69(1) of that regulation require (i) that the urgency be justified in a more convincing, detailed and objective manner, and (ii) the identification of the commodities the price of which has increased and to which the scope of that implementing decision should be limited. The League contends that it is not permissible for an authorisation to derogate from Regulation No 1307/2013 and from Implementing Regulation No 639/2014 to be broad and vague.

19 Noting that the League has based its line of argument on an erroneous premiss in so far as Implementing Decision 2022/484 was adopted not on the basis of Article 69(2) but on the basis of Article 69(1) of Regulation No 1307/2013, the referring court observes that the action before it

raises the question whether, in the light of the grounds set out in recitals 4 to 8 of that implementing decision, that implementing decision is valid in the light of Article 69 of Regulation No 1307/2013 and Article 45 of Regulation No 639/2014.

20 The referring court recalls that the obligation to state reasons requires that any EU act producing legal effects should contain a statement of the reasons which led the institution to adopt it and adds that, while the question for a preliminary ruling suggested by the League is drafted in general terms, a reading of the application for annulment makes it possible sufficiently to ascertain the grounds of invalidity set out therein, consisting of 'the criticism put forward regarding the proportionality of [Implementing Decision 2022/484], or more precisely the statement of reasons for it'.

21 In those circumstances, the Conseil d'État (Council of State) decided to stay the proceedings and to refer the following question to the Court of Justice for a preliminary ruling:

'Is [Implementing Decision 2022/484] compliant with Article 69 of [Regulation No 1307/2013], in conjunction with Article 45 of [Delegated Regulation No 639/2014]?'

Consideration of the question referred

22 According to settled case-law, in the light of the spirit of cooperation which must prevail in the operation of the preliminary reference procedure and in accordance with Article 94(c) of the Rules of Procedure of the Court of Justice, it is essential that the national court set out in its order for reference the precise reasons which led it to question the validity of certain provisions of EU law and the grounds of invalidity which appear to it capable of being upheld (judgment of 11 January 2024, *Friends of the Irish Environment (Fixing fishing quotas above zero)*, C-330/22, EU:C:2024:19, paragraph 45 and the case-law cited).

23 While the request for a preliminary ruling does not contain any detailed explanations in that regard, it is nevertheless apparent from that request that the referring court is asking the Court, in essence, about the validity of Implementing Decision 2022/484 in the light of the question whether, having regard to the conditions laid down in Article 69(1) of Regulation No 1307/2013, which constitutes the legal basis for that implementing decision, that decision is reasoned to the requisite legal standard, and, moreover, whether it meets the requirement set out in that provision relating to the necessary and justifiable nature of the measure which it lays down.

24 As regards compliance with the obligation to state reasons, it must be borne in mind that the statement of reasons required by the second paragraph of Article 296 TFEU must be appropriate to the measure at issue and must disclose in a clear and unequivocal fashion the reasoning followed by the institution that adopted that measure in such a way as to enable the persons concerned to ascertain the reasons for it and to enable the EU judicature to exercise its power of review. It is not necessary for the reasoning to go into all the relevant facts and points of law, since the question whether the statement of reasons for a measure meets the requirements of the second paragraph of Article 296 TFEU must be assessed with regard not only to its wording but also to its context and to all the legal rules governing the matter in question (judgment of 30 April 2019, *Italy* v *Council (Fishing quota for Mediterranean swordfish)*, C-611/17, EU:C:2019:332, paragraph 40 and the case-law cited).

25 As regards, in particular, measures of general application, such as Implementing Decision 2022/484, the statement of reasons may be confined to indicating the general situation which led to its adoption, on the one hand, and the general objectives which it is intended to achieve, on the other. It would be excessive to require a specific statement of reasons for the various technical choices made if the contested measure clearly discloses the essential objective pursued by the institution which adopted it (see, to that effect, judgment of 30 April 2019, *Italy* v *Council (Fishing quota for Mediterranean swordfish)*, C-611/17, EU:C:2019:332, paragraph 42 and the case-law cited).

26 In the present case, as regards, in the first place, the context and rules governing the field in question, it should be noted that, in order to be entitled to the direct payment for agricultural practices beneficial for the climate and the environment, as provided for by the provisions of Title III, Chapter 3 of Regulation No 1307/2013, farmers must, in accordance with Article 43(1) and (2) of that regulation, observe certain agricultural practices. Those practices include crop diversification and having ecological focus area on the agricultural area.

27 In particular, first, it follows from Article 44(1) of Regulation No 1307/2013 that crop diversification entails, above certain area thresholds, there being at least two, or even three, different crops on the arable land of the farmer. In accordance with paragraph 4(c) of that article, land lying fallow is to be considered, for the purposes of that diversification requirement, to be a separate crop from grasses or other herbaceous forage, so that land which has been grazed or harvested for production purposes cannot be counted as land lying fallow.

28 Second, in accordance with Article 46 of Regulation No 1307/2013, where the arable land of a holding covers more than 15 hectares, farmers are to ensure that a minimum defined area is 'ecological focus area'. Under paragraph 2 of that article, land lying fallow is one of the areas which Member States may consider to be ecological focus area.

29 Third, Article 45 of Delegated Regulation No 639/2014 specifies, in paragraph 2, that land lying fallow is not to be used for agricultural production and prohibits, in paragraph 10b, the use of plant protection products on the land in question.

30 Fourth, Article 69(1) of Regulation No 1307/2013 empowers the Commission to adopt implementing acts which are intended to resolve specific problems and which are both necessary and justifiable in an emergency. Such implementing acts may derogate from provisions of that regulation to the extent and for such a period as is strictly necessary.

31 That authorisation must be regarded as enabling the Commission to adopt implementing acts derogating not only from the provisions of Regulation No 1307/2013 itself, but also from the provisions of delegated acts, such as Delegated Regulation No 639/2014, which, in accordance with Article 290(1) TFEU, are intended to supplement or amend Regulation No 1307/2013.

32 On the basis of that authorisation, the Commission adopted Implementing Decision 2022/484, Article 1 of which allowed Member States to derogate, for claim year 2022, from Regulation No 1307/2013 and from Delegated Regulation No 639/2014, in three respects.

33 First, Member States were able, by way of derogation from Article 44(4) of Regulation No 1307/2013, to decide that land lying fallow would be considered as a distinct crop, even if that land had been grazed or harvested for production purposes or had been cultivated.

34 Second, Member States were able, by way of derogation from Article 45(2) of Regulation No 639/2014, to decide that land lying fallow would be considered as ecological focus area, even if that land had been grazed or harvested for production purposes or had been cultivated.

35 Third, by way of derogation from Article 45(10b) of Delegated Regulation No 639/2014, where Member States made use of the derogation referred to in the preceding paragraph, they could also decide to allow for the use of plant protection products on those areas where grazed or harvested for production purpose or where cultivated.

36 Farmers working in a Member State which decided to grant those derogations could therefore be eligible for the direct payment for agricultural practices beneficial for the climate and the environment, even if using their land lying fallow for agricultural production and even if using plant protection products on that land.

37 As regards, in the second place, the extent of the obligation to state reasons, referred to in paragraph 25 of the present judgment, which is incumbent on the Commission when adopting, in particular, a measure of general application such as Implementing Decision 2022/484, it should be noted, first, that, in recital 4 of that implementing decision, the Commission stated that the sharp commodity price surge caused by the Russian Federation's invasion of Ukraine had an impact on the supply and demand for agricultural products. It is clear that that recital sets out in summary but intelligibly the overall situation which led to the adoption of that implementing decision and that it describes with sufficient clarity the specific urgent problem which it seeks to resolve.

38 It should be added that, as is apparent from the first sentence of recital 4 of Implementing Decision 2022/484, the concept of 'commodities' differs from that of 'agricultural products'. It is clear from a combined reading of recitals 4 and 8 of the French-language version of that implementing decision that the term '*produits de base*' is referring to '*matières premières*', namely the elements necessary for agricultural production. That finding is supported by the fact that other language versions of that implementing decision, such as the German-, English- and Italian-language versions, use, in those two recitals, the equivalent term to '*matières premières*' in French, namely '*Rohstoff(e)*', 'commodity' and '*materie prime*', respectively. Furthermore, Implementing Decision 2022/484 does not distinguish between the various agricultural products, with the first sentence of recital 4 of that decision referring to the impact of the sharp commodity price surge on the supply and demand for all agricultural products without distinguishing between them. Consequently, the line of argument put forward by the League before the referring court, as it emerges from the file before the Court, that Implementing Decision 2022/484 is insufficiently reasoned in so far as it does not identify which agricultural products are to be regarded as commodities, which should have been the only goods covered by the derogating measure adopted, disregards the fact that they are two different concepts the respective scopes of which do not overlap.

39 In addition, the League's argument, put forward before the referring court, as also emerges from the file before the Court, that the Commission should have identified, in Implementing Decision 2022/484, the 'imperative grounds of urgency' which justified the adoption of that decision, is based on an erroneous premiss.

40 There must be 'imperative grounds of urgency' in order to justify the adoption of implementing acts on the basis of Article 69(2) of Regulation No 1307/2013, whereas, as the referring court has also observed, that implementing decision was adopted on the basis of paragraph 1 of that article, which refers to an 'emergency'.

41 Furthermore, the League argued before the referring court that urgency had not been demonstrated by the Commission in the present case, given that the Commission had neither defined the concept of 'commodities' nor submitted the calculation demonstrating the 'sharp price surge' for them.

42 In that regard, it is sufficient to note that, considering the requirements of the statement of reasons for measures of general application, recalled in paragraph 25 of the present judgment, the second paragraph of Article 296 TFEU does not require the Commission to provide a statement of reasons specifically defining the commodities the prices of which would have been affected by Russia's invasion of Ukraine on 24 February 2022 or to calculate the increase in those prices.

43 As regards, second, the general objective pursued by Implementing Decision 2022/484, that objective is set out in the second sentence of recital 4. The Commission specifies in that recital that, in order to address the specific problem described in paragraph 37 of the present judgment, the Union agricultural production potential both for food and feed supply should be increased.

44 It is apparent from recital 5 of Implementing Decision 2022/484 that, in order to achieve that objective, the Commission considered it necessary to allow farmers to make use as much as possible of their available areas, given that, in accordance with Article 4(1)(f) of Regulation No 1307/2013, land lying fallow remains arable land suitable for crop production and could therefore be used immediately for the production of food and feed. It is in that context that, as is apparent from recital 5, the Commission considered that Member States should be authorised to derogate from the conditions relating to the direct payment for agricultural practices beneficial for the climate and the environment, including the prohibition of the use of plant protection products.

45 In addition, in recital 6 of Implementing Decision 2022/484, the Commission stated that such measures relating to crop diversification and ecological focus area were to derogate from the provisions of Regulation No 1307/2013 only to the extent and for such a period as was strictly necessary, since they were to be limited to claim year 2022 and aimed at addressing the impact on the supply and demand for agricultural products by allowing for an increase of the total arable land area available for the production of food and feed.

46 It follows from all of the foregoing that the Commission set out to the requisite legal standard, in the light of the conditions laid down in Article 69(1) of Regulation No 1307/2013, the reasons why the measures provided for by Implementing Decision 2022/484, first, are necessary and justifiable in order to resolve a specific problem arising in an emergency and, second, derogate from that regulation only to the extent and for such a period as was strictly necessary for the attainment of that objective.

47 As regards, next, observance of the principle of proportionality, it should be borne in mind that implementing acts adopted on the basis of Article 69(1) of Regulation No 1307/2013 must be necessary and justifiable in an emergency and may derogate from the provisions of that regulation only to the extent and for such a period as is strictly necessary.

48 In that regard, first, in the light of the objective pursued by Implementing Decision 2022/484, which, as is apparent from paragraphs 40 and 41 of the present judgment, is intended to resolve a specific problem arising in an emergency, the measure introduced by that implementing decision appears to be necessary and justifiable. Without requiring complex actions, the use of land lying

fallow is capable of making a direct contribution to increasing agricultural production. Moreover, a measure which does not deprive farmers of the direct payment for agricultural practices beneficial for the climate and the environment when they make use of their land lying fallow for agricultural production is such as to encourage them to use that land.

49 Second, by Implementing Decision 2022/484, the Commission merely authorised Member States to derogate, only during the period covered by claim year 2022, from certain provisions of the Union acts referred to in Article 1 of that decision, and did not impose on them an obligation to that effect.

50 Furthermore, in so far as certain Member States decided to make use of such a possibility, the Commission limited their action in such a way as to minimise its potentially negative impact on the environment.

51 In recital 7 of Implementing Decision 2022/484, the Commission recalled that Member States were required, when implementing that decision, to take due account of the objectives of the agricultural practices beneficial for the climate and the environment and, in particular, the need for sufficient protection of soil quality and quality of natural resources and biodiversity, especially during the most sensitive periods for flowering and nesting birds. In that context, as the Commission points out in its written observations, it was for Member States to define, in compliance with those obligations, the territorial scope of the derogations and to specify the uses and crops permitted, which the Walloon Government did, in the present case, in Article 2(2) of the order of 12 May 2022.

52 In the same context, Article 3 of Implementing Decision 2022/484 requires Member States to notify the Commission of the decisions taken pursuant to Article 1 of that decision and to notify it of the number of holdings which used the derogations and the number of hectares where those derogations have been applied. It is apparent from recital 9 of that implementing decision that the Commission imposed those obligations in order to, inter alia, verify that the decisions by which Member States make use of the derogating regime introduced by that implementing decision are in accordance with the limits laid down by that decision.

53 Consequently, it does not appear that the implementing measures adopted in Implementing Decision 2022/484 fail to meet the requirement laid down in Article 69(1) of Regulation No 1307/2013, namely that they be necessary and justifiable.

54 In the light of the foregoing considerations, the answer to the question referred is that consideration of that question has disclosed nothing capable of affecting the validity of Implementing Decision 2022/484.

Costs

55 Since these proceedings are, for the parties to the main proceedings, a step in the action pending before the referring court, the decision on costs is a matter for that court. Costs incurred in submitting observations to the Court, other than the costs of those parties, are not recoverable.

On those grounds, the Court (Fifth Chamber) hereby rules:

Consideration of the question referred has disclosed nothing capable of affecting the validity of Commission Implementing Decision (EU) 2022/484 of 23 March 2022 providing for derogations from Regulation (EU) No 1307/2013 of the European Parliament and of the Council and from Commission Delegated Regulation (EU) No 639/2014 as regards the implementation of certain conditions relating to the greening payment for claim year 2022.

[Signatures]