

applicant's view, the competitive factor should have been 1. The German Government therefore applied for an increase of the notified aid and requested a corrective adjustment of the factor from 0,75 to 1. The Commission refused that application and informed the German Government that it did not regard it as possible to make the requested adjustment.

In its application, the applicant submits that, in adopting its decision of 5 February 2002, the Commission failed to observe the principle of collegiality and the duty to state reasons, acted in breach of, first, essential formal and procedural requirements and, second, a provision to be applied in implementing the EC Treaty and made improper use of its discretion.

The failure to comply with essential formal requirements consists in, first, the insufficient reasons on which the decision was based. Furthermore, the Commission made improper use of its discretion by misinterpreting the underlying facts in such a way that it avoided opening the investigation procedure even though it should, at least, have conducted a preliminary examination. Thus, the Commission failed to comply with the procedural requirements laid down in Regulation No 659/1999, which are intended to safeguard the rights of the Member States and of the applicant. The applicant's right to a hearing was restricted.

Moreover, the applicant submits that the Commission failed to observe and/or misapplied the content of the provisions of the multisectoral framework on regional aid and that it wrongly and incompletely assessed the underlying facts. This is shown, in particular, by the fact that the Commission failed to recognise the possibility of amending approved aid without withdrawing it.

Finally, the applicant contends that this is a case of unequal treatment because, in another decision adopted at the same time on planned aid in the same sector, the capacity utilisation rate of the relevant NACE class was correctly taken into account whereas it was wrongly disregarded in the contested decision.

---

**Action brought on 23 April 2002 by Travelex Global and Financial Services Limited and Interpayment Services Limited against the Commission of the European Communities**

(Case T-131/02)

(2002/C 169/67)

(Language of the case: English)

An action against the Commission of the European Communities was brought before the Court of First Instance of the

European Communities on 23 April 2002 by Travelex Global and Financial Services Limited and Interpayment Services Limited, represented by Mr Claude Delcorde of Dechert Price & Rhoads, London (United Kingdom).

The applicant claims that the Court should:

- order that, pursuant to the second paragraph of Article 288 EC, the Commission make good the damage caused to the applicants by paying them the sum of £ 25,5 million;
- order that the Commission pay the costs of this application.

*Pleas in law and main arguments*

The terms of this application are substantially similar to those of the application lodged in Case T-195/00 Thomas Cook and Interpayment Services -v- Commission<sup>(1)</sup>.

<sup>(1)</sup> OJ C 302, of 21.10.00, p. 24.

---

**Action brought on 25 April 2002 by Greencore Group plc against the Commission of the European Communities**

(Case T-135/02)

(2002/C 169/68)

(Language of the case: English)

An action against the Commission of the European Communities was brought before the Court of First Instance of the European Communities on 25 April 2002 by Greencore Group plc, represented by Mr Alexander Böhlke of Kemmler Rapp Böhlke, Brussels (Belgium).

The applicant claims that the Court should:

- annul Commission Decision BUDG/C-2/RVT/49076 of 11 February 2002;
- order the Commission to pay the costs.

*Pleas in law and main arguments*

By the current action, the applicant challenges the Decision to refuse to pay interest on part of the competition fine imposed