

Action brought on 4 June 2002 by Internationaler Tierschutz-Fonds (IFAW) GmbH against the Commission of the European Communities

(Case T-168/02)

(2002/C 202/49)

(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 4 June 2002 by Internationaler Tierschutz-Fonds (IFAW) GmbH, represented by Scott Crosby, Solicitor.

The applicant claims that the Court should:

- annul the Decision of the Commission of 26 March 2002 refusing access to the documents held by the Commission authored by the German authorities relating to the expansion of the existing Daimler Chrysler Aerospace GmbH plant on the Elbe in Hamburg for the final assembly of the Airbus A3XX on an area intended for the Natura 2000 network, as the same were identified in the applicant's initial application of 20 December 2001 in Category B of Annex III to that application;
- order the defendant to pay the applicant's costs.

Pleas in law and main arguments

The applicant sought access to certain documents concerning the Opinion of the Commission of 19 April 2002 authorising Germany to declassify the Mühlenberger Loch, an area protected under Council Directive 92/43/EEC as part of the Natura 2000 network. The applicant obtained access to part of these documents. Access to the documents authored by the German authorities and in the possession of the Commission was, however, refused by the contested Decision following a request to that effect made by the German authorities.

The applicant claims that the contested Decision constitutes a breach of Article 4 of Regulation No 1049/2001⁽¹⁾. According to the applicant, Article 4(5) of the Regulation has been misinterpreted by the Commission. The applicant claims that, according to the plain meaning of the words used, a request by a third party does not place the Commission under an absolute obligation to comply with that request in all circumstances. The Commission indicated however in its Decision that Member States have a right of veto under Article 4(5) of the Regulation.

According to the applicant, the contested Decision also infringes Article 4 of the Regulation taken as a whole. The applicant claims that the purpose of the consultation of the German authorities was to enable the Commission to make an assessment whether an exception under Article 4(1) or 4(2) was applicable. However, such an assessment was apparently not made by the Commission. Instead, the Commission indicated that a Member State has the right to veto access to documents emanating from it, which results, according to the applicant, in a reintroduction of the 'authorship rule'.

The applicant claims furthermore that the contested Decision does not set out adequate reasons for refusing access and therefore infringes Article 253 of the EC Treaty. There is also no reasoning as to why partial access to the documents was denied.

The applicant finally indicates that there is a clear public interest in the disclosure of those documents since the project leading to the destruction of Mühlenberger Loch was the subject of much public and media comment. Therefore, the public should have knowledge of the facts underpinning the Opinion of the Commission authorising the declassification of Mühlenberger Loch in order to understand how that accords with environmental objectives and principles.

⁽¹⁾ Regulation (EC) No 1049/2001 of the European Parliament and of the Council of 30 May 2001 regarding public access to European Parliament, Council and Commission documents (OJ L 145, 31.5.2001 p. 43).

Action brought on 29 May 2002 by Maria Rosaria Ragazzini against European Parliament

(Case T-170/02)

(2002/C 202/50)

(Language of the case: French)

An action against the European Parliament was brought before the Court of First Instance of the European Communities on 29 May 2002 by Maria Rosaria Ragazzini, residing in Faenza (Italy), represented by Georges Vandersanden, Laure Levi and Aurore Finkelstein, lawyers.

The applicant claims that the Court should:

- annul the decision of the appointing authority of 20 February 2002 not to grant her the benefit of Article 73 of the Staff Regulations;