

wood procurement undertaking and a logistics undertaking in Arneburg bei Stendal in the Land Sachsen-Anhalt, Germany, and also against the provision of an 80 % surety for a loan of EUR 464,550 million.

The applicants claim that the Commission did not fully adhere to the guidelines and general regulations. It failed to examine the sectoral effects of the plans on wood as a resource and adopted too wide a procurement radius. That wide procurement radius leads in their submission to higher costs and thus the unprofitability of the undertaking, whereas, if a smaller procurement radius were used, forest resources would not be sufficient to supply all wood-processing undertakings in the region.

The Commission failed to take account of the fact that the aid beneficiary's own share was less than the necessary 25 %.

The Commission calculated the number of indirectly created jobs at too high a figure, so that, instead of the factor of 1,5, a factor of 1,25 should have been used. The maximum permissible intensity of aid was therefore only 26,25 %.

In addition, the aid proportion of a State guarantee for a loan was calculated too low, so that, on a correct calculation, there was an aid intensity of 33,31 %, which even exceeded the maximum aid intensity approved by the Commission of 31,5 %.

Council Regulation (EC) No 659/99 of 22 March 1999 laying down detailed rules for the application of Article 88 EC⁽¹⁾ was infringed, since no formal investigation procedure was opened, although the Commission had cause for concern. The applicants were thereby hindered in the exercise of their procedural rights and limited in their right to a hearing.

Since the regional aid guidelines and the provisions of the multisectoral regional aid framework were not complied with, none of the exceptions in Article 87(3)(a) and (c) of the EC Treaty can apply.

The Commission further infringed Article 2, Article 3(1)(i), Article 6, and the third indent of Article 174(1) of the EC Treaty, as it failed to take account of the environmental impact when making its decisions. In the applicants' submission, the plans being supported would lead to overfelling in order to meet requirements.

⁽¹⁾ OJ 1999 L 83, p. 1.

Action brought on 24 December 2002 by Sergio Sandini against the Court of Justice of the European Communities

(Case T-389/02)

(2003/C 44/77)

(Language of the case: French)

An action against the Court of Justice of the European Communities was brought before the Court of First Instance of the European Communities on 24 December 2002 by Sergio Sandini, residing in Ehlange (Luxembourg), represented by Juan Ramon Iturriagoitia and Karine Delvolvé, lawyers.

The applicant claims that the Court should:

- annul the decision of the Court of Justice given on 24 September 2002 and concerning Complaint 2/02-R(e) lodged by the applicant on 25 January 2002 against the decision of 25 October 2001;
- order the defendant to pay the applicant, as compensation for the damage that he has suffered and will in future suffer, the sum of EUR 350 000, subject to all necessary reservations, together with default interest at the rate of 10 % per annum from 7 October 1999 until the date of payment;
- order the defendant to pay all the costs.

Pleas in law and main arguments

The applicant, an official of the Court of Justice, challenges that institution's refusal to compensate him for the damage suffered as a result of his occupational disease, which has already been recognised by decision of the appointing authority of 31 May 2001, adopted under Article 73 of the Staff Regulations, and on the basis of which a sum was paid to him.

The pleas relied on in support of this application are similar to those in Case T 255/02 H v Court of Justice (OJ C 274 of 9.11.2002, p. 26).