

- access, permission to copy and to produce before the courts all documents relating to the project PRODCOM concerning Eurogramme Ltd directly or indirectly and, in particular, those appearing in the list enclosed with the originating request together with all the elements of the internal investigation file carried out by the Head of Unit DG EUROSTAT/R.1 'Administrative and personnel matters' including the audit report of 21 December 2000;
- financial assistance to allow her to cover the entire cost of defending the action seeking compensation for non-material, professional and material damage suffered as a result of defamatory statements made against her;
- order the defendant to pay the costs.

Pleas in law and main arguments

The applicant was an official of the Commission, working for DG EUROSTAT. She was responsible for the PRODCOM project in respect of which Eurogramme Ltd entered into a contract for the provision of statistical services.

According to the applicant, Eurogramme Ltd made serious accusations against the applicant in this respect. Subsequently, the applicant brought an action on the grounds of defamation against Eurogramme Ltd before the courts in the United Kingdom.

In that context, the applicant submitted a request within the meaning of Article 90(1) of the Staff Regulations seeking to obtain access and permission to copy and produce before the courts in the United Kingdom all documents relating to the PRODCOM project. That request also sought financial assistance to allow her to cover the entire cost of defending the action seeking compensation for damage suffered as a result of defamatory statements made against her by Eurogramme Ltd. That request was rejected by the contested decision.

In support of her application, the applicant alleges infringement of Decision No 94/90⁽¹⁾ on public access to Commission documents and infringement of Article 19 of the Staff Regulations. The applicant points out that the contested decision gives no reason for refusing access to the file and permission to produce such documents before the courts.

⁽¹⁾ 94/90/ECSC, EC, Euratom: Commission Decision of 8 February 1994 on public access to Commission documents (OJ 1994 L 46, 58).

Action brought on 19 December 2002 by Arla Foods and Others against the Commission of the European Communities

(Case T-397/02)

(2003/C 70/40)

(Language of the case: Danish)

An action against the Commission of the European Communities was brought before the Court of First Instance of the European Communities on 19 December 2002 by Arla Foods, Viby J (Denmark), and eight other Danish cheese producers, represented by Georg Lett, advokat.

The applicants claim that the Court should:

- Annul Commission Regulation (EC) No 1829/2002 of 14 October 2002⁽¹⁾ on the registration of the name 'Feta' under the procedure laid down in Article 17 of Council Regulation No 2081/92.
- Order the Commission to pay the costs.

Pleas in law and main arguments

Council Regulation (EEC) No 2081/92 of 14 July 1992 on the protection of geographical indications and designations of origin for agricultural products and foodstuffs⁽²⁾ introduced Community rules governing *inter alia* designations for foodstuffs. Under Commission Regulation (EC) No 1107/96 of 12 June 1996 on the registration of geographical indications and designations of origin under the procedure laid down in Article 17 of Council Regulation (EEC) No 2081/92⁽³⁾ designations including 'feta' were registered. By judgment of 16 March 1999⁽⁴⁾, the Court of Justice annulled Regulation No 1107/96 as regards the term 'feta'. With the contested regulation, the Commission has again registered the term 'feta' as a protected geographical indication in favour of Greece.

The applicants, all Danish producers of feta cheese, claim that the contested regulation should be annulled and submit that the regulation is vitiated by fundamental formal defects which lead to its being invalid as regards registration of the term 'feta'. According to the applicants, the Greek legislation was enacted too late to enable the term 'feta' to be registered pursuant to Article 17 of Council Regulation No 2081/92. Moreover, neither the principal points in Greece's application nor technical goods specifications for the term 'feta' have been made public.

The applicants further claim that 'feta' does not fulfil the conditions for registration pursuant to Council Regulation No 2081/92. 'Feta' is a generic term which cannot be protected under that regulation. 'Feta' is a generally used term of reference for a given dairy product. The evolution in the Greek legislation shows that 'feta' has been construed as a generic term in Greece as well, just as the Council and the Commission in their formulations have treated feta as a generic product. Furthermore, Greek feta is not one uniform type of product, leading to the conclusion that the aim is in reality the protection of Greek cheese *per se*.

Lastly, the applicants submit that the registration of the term 'feta' is contrary to the principle laid down in Article 7(4) of Council Regulation No 2081/92, fundamental principles of EC law and therefore the Treaty, including Article 12 EC and Article 34(3) EC, and also the principle of the protection of legitimate expectations and the proportionality principle.

(1) Commission Regulation (EC) No 1829/2002 of 14 October 2002 amending the Annex to Regulation (EC) No 1107/96 with regard to the name 'Feta' (OJ 2002 L 277, p 10).

(2) OJ 1992 L 208, p. 1.

(3) OJ 1996 L 148, p. 1.

(4) Joined Cases C-289/96, C-293/96 and C-299/96 Denmark and Others v Commission [1999] ECR I-1541.

Action brought on 9 January 2003 by R. J. Reynolds Tobacco Holdings, Inc., R. J. Reynolds Tobacco Company, R. J. Reynolds Tobacco International, Inc. and RJR Acquisition Corp. against the Commission of the European Communities

(Case T-6/03)

(2003/C 70/41)

(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 9 January 2003 by R. J. Reynolds Tobacco Holdings, Inc., Winston-Salem, United States of America, R. J. Reynolds Tobacco Company, Winston-Salem, United States of America R. J. Reynolds Tobacco International, Inc., Winston-Salem, United States of America and RJR Acquisition Corp, Wilmington, United States of America, represented by Mr Eric Morgan de Rivery and Ms Francesca Marchini Camia, Lawyers.

The applicant claims that the Court should:

- declare the present application admissible;
- annul the Commission Decision resulting in the filing of the third complaint⁽¹⁾ on 30 October 2002 before the New York District Court against the applicants, as publicly announced by the Commission in its Press Release IP/05/1592 of 31 October 2002;
- order the Commission to pay the costs of the present proceedings, including the costs of the applicants and any intervening parties.

Pleas in law and main arguments

The applicants are the defendants in legal proceedings brought by the Commission on behalf of the European Community and a number of Member States before a United States court seeking treble and punitive damages, equitable relief and various types of injunctive relief for the applicants' alleged participation in money laundering schemes.

The applicants submit that the European Community, represented by the Commission, lacks the competence to adopt the contested act and to bring action on its own behalf and on behalf of Member States for the following reasons:

- Article 2 EC does not confer any specific and autonomous powers upon the institutions;
- Article 281 EC merely states that the EC enjoys legal personality, without addressing any issue of competence;
- Article 282 EC does not confer any competence on the EC, represented by the Commission to bring an action before the court of a non-Member State;
- Article 280 EC does not grant the EC, represented by the Commission, any competence to bring legal action for the protection of the Community's financial interests. Article 280 only grants limited competence on the Community to ensure that Member States introduce measures that are effective to protect the Community's financial interest and to assist the Member States in this task;
- even if one assumes that Article 280 EC grants such competence on the EC, the contested act does not fulfil