

The applicant brought an application before the Court of First Instance ⁽³⁾ seeking the annulment of Regulation No 2380/98 insofar as the Council failed to give retroactive effect to the above amendment. By judgement dated 29 June 2000 ⁽⁴⁾ the Court of First Instance annulled the contested provision. Thereafter the Council adopted Regulation (EC) No 133/2001 of 22 January 2001 ⁽⁵⁾ amending Regulation (EC) No 1567/97 and granting retroactive effect to the provision in question. All of the applicant's payments of duties imposed by Regulation No 1567/97 were refunded to it.

By its present action the applicant seeks to obtain compensation in the form of interest on the amounts of import duty which it initially paid and which were later refunded to it, as well as in the form of legal expenses it incurred in the course of administrative proceedings before the Commission and the German customs authorities.

In support of its application the applicant submits that the Council acted illegally in refusing to abide by the consequences of the review findings leading to Regulation 2380/98 and that this illegal behaviour was of sufficient gravity as to give rise to liability under Article 288 EC.

(1) OJ L 208, 2.8.1997, p. 31-43.

(2) OJ L 296, 5.11.1998, p. 1-5.

(3) Case no T-7/99, notified in OJ C 86, 27.3.1999, p. 23.

(4) Notified in OJ C 259, 9.9.2000, p. 17.

(5) OJ L 23, 25.1.2001, p. 9.

Action brought on 5 November 2003 by Jacques Wunenburger against Commission of the European Communities

(Case T-370/03)

(2004/C 21/78)

(Language of the Case: French)

An action against the Commission of the European Communities was brought before the Court of First Instance of the European Communities on 5 November 2003 by Jacques Wunenburger, residing in Zagreb (Croatia), represented by E. Boigelot, lawyer, with an address for service in Luxembourg.

The applicant claims that the Court should:

- annul the appointing authority's decision of 11 March 2003 not to accept the applicant's candidature for the post of Director in the Directorate 'Africa, Caribbean, Pacific' (AIDCO.C), as a result of the appointing authority's decision of 8 January 2003 to appoint another person to that post;
- in any event, orders the defendant to pay the costs.

Pleas in law and main arguments

The applicant in this case challenges the appointing authority's rejection of his candidature for the post of Director in the Directorate 'Africa, Caribbean, Pacific' (AIDCO.C).

In support of his claims, he alleges infringement of Article 7, of the second paragraph of Article 25, and Articles 29(1)(a) and 45(1) of the Staff Regulations, irregularity in the administrative procedure prior to the contested decision, and disregard of general legal principles, such as the protection of legitimate expectations, equal treatment and career progression.

In that regard, the applicant submits, in particular, that his candidature was not considered fairly and that he was not, at the very least, short listed without any statement of reasons, although the appointing authority had recognised his abilities for A2 post of Director AIDCO. Furthermore, the appointing authority subsequently established criteria not set out in the vacancy notice.

Finally, the appointing authority made a manifest error of assessment in the comparison of the candidates' respective merits.

Action brought on 7 November 2003 by Vincenzo le Voci against the Council of the European Union

(Case T-371/03)

(2004/C 21/79)

(Language of the case: English)

An action against the Council of the European Union was brought before the Court of First Instance of the European Communities on 7 November 2003 by Vincenzo le Voci, Brussels, (Belgium), represented by B. van de Wal and E. Oude Elferink, lawyers.