

- Declare that the Commission of the European Communities failed to fulfil its obligations under the Treaty establishing the European Community by failing to adopt a decision following the complaint lodged by the applicant on 8 December 2000;
- Order the Commission of the European Communities to pay the costs incurred by the applicant, amounting to a minimum of EUR 25 000.

Pleas in law and main arguments

The applicant states that it is acting on behalf of two organisations which on 8 December 2000 had lodged a complaint with the Commission concerning the methods of public-sector hospital financing by the French State and, more specifically, an integrated plan in two protocols signed on 13 and 14 March 2000, under which the French Minister for employment and solidarity undertook to procure additional funding for those hospitals. According to the applicant, the Commission has never stated its position on the statements made in that complaint.

In support of its action, the applicant alleges infringement of Articles 87 and 88 of the EC Treaty and of Council Regulation (EC) No 659/1999⁽¹⁾. It states that the period of 39 months which has passed since the complaint was lodged exceeds the reasonable time within which the Commission has to adopt a decision.

⁽¹⁾ 1 Council Regulation (EC) No 659/1999 of 22 March 1999 laying down detailed rules for the application of Article 93 of the EC Treaty, OJ 1999 L 83, p. 1.

Action brought on 13 December 2003 by Arnaldo Lucaccioni against the Commission of the European Communities

(Case T-399/03)

(2004/C 47/59)

(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 13 December 2003 by Arnaldo Lucaccioni, residing in St-Leonard-on-Sea (United Kingdom), represented by Juan Ramón Iturriagoitia Bassas and Karine Delvolvé, lawyers.

The applicant claims that the Court should:

- annul the decision of the Commission of 10 March 2003 in implement of the judgment of the Court of First Instance of the European Communities of 26 February 2003 in Case T-212/01;
- annul the report of 25 October 2000 of the doctor in charge of the applicant's case, notified to the applicant on 10 March 2003, and the task entrusted to him;
- order the Commission to pay the costs;
- in the alternative, declare that the report of 25 October 2000 must be disregarded in the procedure considering the aggravation of the applicant's occupational disease and, if necessary, in the procedure for reopening a request that the disease be recognised as an occupational disease.

Pleas in law and main arguments

On 7 June 2000, the applicant, a former official of the Commission who was granted retirement on the ground of total permanent invalidity as a result of an occupational disease, submitted a request on the basis of an alleged aggravation of his occupational disease. By decision notified to the applicant by letter of 16 November 2000, the Commission suspended the procedure provided for by Article 22 of the Rules on the insurance of officials of the European Communities against the risk of accident and of occupational disease and decided not to take action on the applicant's request. As a result of an action brought by the applicant, that decision of the Commission was annulled by the Court of First Instance by judgment of 26 February 2003⁽¹⁾. On 10 March 2003, the Commission wrote to the applicant following the judgment delivered by the Court in order to transmit to him of the report of the doctor in charge of his case and to inform him that it could not grant his request because what was involved was a draft decision as referred to in Article 21 of the Rules.

By the present application, the applicant seeks the annulment of the decision contained in the letter of 10 March 2003 and of the doctor's report. In support of his claims, he alleges failure to comply with the judgment of the Court of 26 February 2003 in Case T-212/01, breach of the rights of defence, material errors, and breach of the duty to state reasons.

⁽¹⁾ Case T-212/01, published in OJ 2001 C 331, p. 25. Judgment Notice in OJ 2003 C 112, p. 31.