

Action brought on 11 June 2008 — Bundesverband Deutscher Milchviehhalter and Others v Council

(Case T-217/08)

(2008/C 209/102)

*Language of the case: German***Parties**

Applicants: Bundesverband Deutscher Milchviehhalter eV (Bonn Germany), Romuald Schaber (Petersthal, Germany), Stefan Mann (Eberdorfergrund, Germany) and Walter Peters (Körchow, Germany) (represented by: W. Renner and O. Schniewind, lawyers)

Defendant: Council of the European Union

Form of order sought

- declare that Council Regulation (EC) No 248/2008 of 17 March 2008 amending Regulation (EC) No 1234/2007 as regards the national quotas for milk (OJ 2008 L 76, p. 6) is invalid;
- order the defendant to pay the costs.

Pleas in law and main arguments

The applicant brings an action against Regulation (EC) No 248/2008 ⁽¹⁾ by which the national quotas for milk laid down in Annex IX to Regulation (EC) No 1234/2007 ⁽²⁾ until 1 August 2008 to facilitate greater milk production in the Community and to meet the new requirements of the market in milk were increased by 2 %.

In support of its action the applicant claims, first, that the increase in the national quotas for milk is a misuse of discretionary powers since it pursues grounds other than those indicated in the recitals.

In addition the regulation being challenged infringes the EC Treaty, as Article 37(2) EC is applied erroneously as a provision authorising disregard of the objectives set out in Article 33(1)(a) and (b) EC, the environmental protection requirements within the meaning of Article 6 EC has been unlawfully disregarded and the duty of conservation and safeguarding of cultural heritage in the Community under Article 151 EC has been infringed.

Furthermore, there is an infringement of the applicant's freedom to choose a profession and to own property and of the principle of non-discrimination.

⁽¹⁾ Council Regulation (EC) No 248/2008 of 17 March 2008 amending Regulation (EC) No 1234/2007 as regards the national quotas for milk (OJ 2008 L 76, p. 6).

⁽²⁾ Council Regulation (EC) No 1234/2007 of 22 October 2007 establishing a common organisation of agricultural markets and on specific provisions for certain agricultural products (OJ 2007 L 299, p. 1).

Action brought on 18 June 2008 — Szomborg v Commission

(Case T-228/08)

(2008/C 209/103)

*Language of the case: Polish***Parties**

Applicant: Grzegorz Szomborg (Jastarnia, Poland) (represented by R. Nowosielski, lawyer)

Defendant: Commission of the European Communities

Form of order sought

- declare that the Commission failed to act, in breach of its obligations under Article 27 of Council Regulation (EC) No 2187/2005 of 21 December 2005 ⁽¹⁾, in that it did not publish a scientific assessment of the effects of using in particular gillnets, trammel nets and entangling nets on cetaceans and did not present its findings to the European Parliament and the Council;
- order the Commission to bear its costs;
- order the applicant's costs to be reimbursed.

Pleas in law and main arguments

In accordance with Article 27 of Council Regulation No 2187/2005 the Commission was obliged to ensure by 1 January 2008 that a scientific assessment was conducted of the effects of using in particular gillnets, trammel nets and entangling nets on cetaceans and its findings presented to the European Parliament and the Council. In connection with the failure to present such a report within the prescribed period, the applicant called on the Commission to act, by letter of 25 February 2008. In reply to the applicant's call to act, the Commission asserted that such a scientific assessment had not yet been presented as a result of the lack of cooperation by other parties.

Considering that in those circumstances the Commission's failure to comply with its obligation under Article 27 of Council Regulation No 2187/2005 is beyond dispute, the applicant brought the present action for failure to act under Article 232 EC.

⁽¹⁾ Council Regulation (EC) No 2187/2005 of 21 December 2005 for the conservation of fishery resources through technical measures in the Baltic Sea, the Belts and the Sound, amending Regulation (EC) No 1434/98 and repealing Regulation (EC) No 88/98 (OJ 2005 L 349, p. 1).