

ORDER OF THE COURT OF FIRST INSTANCE (Second Chamber)

5 July 2006 \*

In Case T-357/05,

**Comunidad Autónoma de Valencia — Generalidad Valenciana** (Spain),  
represented by J.-V. Sánchez-Tarazaga Marcelino,

applicant,

v

**Commission of the European Communities**, represented by L. Escobar Guerrero  
and A. Weimar, acting as Agents,

defendant,

APPLICATION for the annulment of Commission Decision C(2005) 1867 final of 27 June 2005, concerning the reduction of the assistance initially granted from the Cohesion Fund to Project Group No 97/11/61/028, concerning the collection and treatment of waste waters on the Mediterranean coast of the Comunidad Autónoma de Valencia (Spain),

\* Language of the case: Spanish.

THE COURT OF FIRST INSTANCE  
OF THE EUROPEAN COMMUNITIES (Second Chamber),

composed of J. Pirrung, President, A.W.H. Meij and I. Pelikánová, Judges,  
Registrar: E. Coulon,

makes the following

**Order**

**Facts and procedure**

- <sup>1</sup> By application lodged at the Registry of the Court of First Instance on 19 September 2005, the applicant brought an action against Commission Decision C(2005) 1867 final of 27 June 2005, concerning the reduction of the assistance initially granted from the Cohesion Fund to Project Group No 97/11/61/028, concerning the collection and treatment of waste waters on the Mediterranean coast of the Comunidad Autónoma de Valencia (Spain).
- <sup>2</sup> The application states that the applicant is represented by Mr Sánchez-Tarazaga Marcelino, 'letrado', of the applicant's legal service. Attached to this application is a certificate signed by the Assistant Director of the applicant's legal service stating that Mr Sánchez-Tarazaga Marcelino is authorised to represent the applicant in the present proceedings.

- 3 On 25 November 2005, the Court of First Instance invited the applicant, pursuant to Article 44(6) of the Rules of Procedure of the Court of First Instance, to indicate whether its representative was a member of the Spanish Bar and, if so, to provide the corresponding documentary evidence. At the same time, the parties were informed that the time-limit for submission of the defence was suspended until further notice. On 7 December 2005, Mr Sánchez-Tarazaga Marcelino responded, stating that, while not a member of the Bar, he was authorised under Spanish law to represent the applicant before the national and Community courts.
- 4 On 22 December 2005, the Comunidad Autónoma de Andalucía — Junta de Andalucía lodged an application for leave to intervene. The applicant and the Commission submitted their observations on the admissibility of the application for leave to intervene on 7 and 18 March 2006 respectively.

## The law

- 5 Article 111 of the Rules of Procedure of the Court of First Instance provides that, where an action brought before the Court is manifestly inadmissible or manifestly lacking any foundation in law, the Court may, by reasoned order, without taking further steps in the proceedings, give a decision on the action.
- 6 In the present case, the Court decides, pursuant to that article, to give a decision without taking further steps in the proceedings.
- 7 Pursuant to the third paragraph of Article 19 of the Statute of the Court of Justice, which is applicable to proceedings before the Court of First Instance by virtue of Article 53 of that Statute, non-privileged parties must be represented before the Community Courts by a lawyer, that is to say, in the Spanish version, by an ‘abogado’. Moreover, it is clear from the fourth paragraph of Article 19 of the Statute of the Court of Justice that two cumulative conditions must be satisfied in order for

a person to be able validly to represent parties other than Member States and Community institutions before the Community Courts: that person must be a lawyer and he must be authorised to practise before a court of a Member State or of another State which is a party to the Agreement on the European Economic Area (EEA). Those requirements are essential formal rules and failure to comply with them will result in the action being inadmissible.

- 8 The reason for the requirement imposed by Article 19 of the Statute of the Court of Justice is that a lawyer is regarded as a collaborator in the administration of justice, required to provide, in full independence, and in the overriding interests of that cause, such legal assistance as the client requires. The counterpart of that protection lies in the professional discipline laid down and enforced in the general interest by the institutions endowed with the requisite powers for that purpose. Such a conception reflects the legal traditions common to the Member States and is also to be found in the legal order of the Community (Case 155/79 *AM & S v Commission* [1982] ECR 1575, paragraph 24, and the order of the Court of First Instance in Case T-445/04 *ET v OHIM — Aparellaje eléctrico (UNEX)* [2005] ECR II-677, paragraph 8).
- 9 That independence and service in the overriding interests of the administration of justice might be compromised if it were accepted that a party other than those referred to in the first and second paragraphs of Article 19 of the Statute of the Court of Justice (the ‘privileged parties’) could be represented before the Community courts by a person who is not registered as a member of the Bar, but who is linked to that party by an employment relationship. Such a person would in fact be an agent within the meaning of the first paragraph of Article 19 of the Statute of the Court of Justice. However, representation by an agent is restricted, under the third paragraph of Article 19 of the Statute of the Court of Justice, to the privileged parties.
- 10 As Mr Sánchez-Tarazaga Marcelino is not registered as a member of the Bar, he is not a lawyer (abogado) within the terms of Article 19 of the Statute of the Court of Justice. Consequently, even though he may, according to Spanish law, be able to represent the applicant, who is not amongst the privileged parties, in actions before the Spanish courts, he does not satisfy the first of the two cumulative conditions set

out in the fourth paragraph of Article 19 and is for that reason not authorised to represent the applicant before the Court of First Instance.

- 11 That conclusion is not undermined by the fact that, in another case, a Spanish autonomous community was represented by a member of its legal service who was not a member of the Bar (order of the Court of First Instance in Case T-29/03 *Comunidad Autónoma de Andalucía v Commission* [2004] ECR II-2923). In that case, the Commission first raised the issue of the applicant's representation in a plea of inadmissibility which it subsequently withdrew. The action having been dismissed as inadmissible on other grounds, the Court of First Instance did not rule, in that order, on the question of the applicant's representation.
- 12 It follows from the above considerations that the present action must be dismissed as manifestly inadmissible.
- 13 In those circumstances, there is no need to adjudicate on the application for leave to intervene lodged by the Comunidad Autónoma de Andalucía — Junta de Andalucía.

## Costs

- 14 Under Article 87(2) of the Rules of Procedure, the unsuccessful party is to be ordered to pay the costs if they have been applied for in the successful party's pleadings. Since the applicant has been unsuccessful, it must, in accordance with the form of order sought by the Commission, be ordered to pay the costs. However, the applicant, the Commission and the Comunidad Autónoma de Andalucía — Junta de Andalucía are to bear their own costs relating to the application for leave to intervene.

On those grounds,

THE COURT OF FIRST INSTANCE (Second Chamber)

hereby orders:

- 1. The action is dismissed as manifestly inadmissible.**
- 2. There is no need to adjudicate on the application for leave to intervene.**
- 3. The applicant shall bear its own costs as well as those of the Commission, with the exception of the costs relating to the application for leave to intervene.**
- 4. The applicant, the Commission and the Comunidad Autónoma de Andalucía — Junta de Andalucía shall bear their own costs relating to the application for leave to intervene.**

Luxembourg, 5 July 2006.

E. Coulon

Registrar

J. Pirrung

President