

ORDER OF THE CIVIL SERVICE TRIBUNAL
(First Chamber)
14 December 2007

Case F-21/07

Luigi Marcuccio
v
Commission of the European Communities

(Civil service — Officials — Action for damages — Allegedly unlawful processing of medical information — Inadmissibility — Failure to bring a claim for damages within a reasonable time)

Full text in Italian II-A-1 - 2621

Application: brought under Articles 236 EC and 152 EA, in which Mr Marcuccio seeks, principally, compensation for the damage he allegedly suffered as a result of a series of unlawful acts on the part of a number of Commission officials when processing medical information concerning him.

Held: The action is dismissed as manifestly inadmissible. The parties are to bear their own costs.

Summary

*1. Procedure — Admissibility of actions — Assessment by reference to the rules in force when the application was lodged
(Rules of Procedure of the Civil Service Tribunal, Art. 76)*

*2. Officials — Actions — Time-limits — Claim for compensation addressed to an institution — Duty to act within a reasonable time
(Statute of the Court of Justice, Art. 46; Staff Regulations, Art. 90)*

1. Although the rule laid down in Article 76 of the Rules of Procedure of the Civil Service Tribunal that the Tribunal may, by way of an order, dismiss an action which is manifestly bound to fail is a procedural rule which, as such, applies from the time when it enters into force to all proceedings pending before the Tribunal, the same is not true of rules on the basis of which the Tribunal may, under that article, regard an action as manifestly inadmissible, and which may only be those applicable on the date when the action is brought.

(see para. 14)

2. The onus is on officials or other staff to submit a claim for compensation from the Community for loss alleged to be attributable to the Community within a reasonable period from the time when they became aware of the situation of which they complain. The reasonableness of a period is to be appraised in the

light of the circumstances specific to each case and, in particular, the importance of the case for the person concerned, its complexity and the conduct of the parties.

Account must also be taken of the point of reference provided by the limitation period of five years laid down for actions in non-contractual liability by Article 46 of the Statute of the Court of Justice. However, the five year period does not constitute a rigid and inviolable limit below which any claim is admissible regardless of the time taken by the applicant to submit his claim to the administration and of the circumstances of the case.

(see paras 19-22)

See:

T-144/02 *Eagle and Others v Commission* [2004] ECR II-3381, paras 65 and 66;
F-125/05 *Tsarnavas v Commission* [2007] ECR-SC I-A-1-43 and II-A-1-231,
paras 76 and 77