

ORDER OF THE CIVIL SERVICE TRIBUNAL
(First Chamber)
4 November 2008

Case F-87/07

Luigi Marcuccio
v
Commission of the European Communities

(Civil service — Officials — Action for damages — Allegedly unlawful conduct on the part of the Commission's Medical Service — Inadmissibility — Failure to comply with a reasonable period for lodging a claim for compensation)

Full text in the language of the case (Italian) II-A-1 - 1915

Application: brought under Articles 236 EC and 152 EA, in which Mr Marcuccio primarily seeks compensation for the damage allegedly suffered by reason of the unlawful conduct of the Commission's Medical Service in dealing with three medical certificates produced by the applicant in the summer of 2001.

Held: The action is dismissed as manifestly inadmissible. The applicant is ordered to pay the costs.

Summary

1. 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)

2. Officials — Actions — Action for damages — Subject-matter — Ruling — Manifest inadmissibility

(Staff Regulations, Arts 90 and 91)

1. 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 intangible 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 27-30)

See:

9/75 *Meyer-Burckhardt v Commission* [1975] ECR 1171, paras 7, 10 and 11

T-144/02 *Eagle and Others v Commission* [2004] ECR II-3381, paras 65, 66 and 71

F-125/05 *Tsarnavas v Commission* [2007] ECR-SC I-A-1-43 and II-A-1-231, paras 71, 76 and 77

2. In an action for compensation brought by an official, claims which seek, in reality, a declaration by the Community judicature that certain arguments put forward in support of the claim for compensation are well founded are manifestly inadmissible because it is not for the court to make statements of law. That is true of claims that the Community judicature should make a declaration establishing the reality of the actions and conduct complained of and declare them unlawful.

(see para. 36)

See:

108/88 *Jaenicke Cendoya v Commission* [1989] ECR 2711, paras 8 and 9