

- Infringement of Article 2 of Regulation No 1258/1999, since the contested decision is applied in inappropriate circumstances, given that the irregularities assessed by the Commission are insufficient.
- Infringement of the provisions of Article 2 of that regulation, and of the Guidelines for the calculation of the financial consequences on preparing the Decision on the clearance of accounts of the EAGGF Guarantee Section.

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- (¹) Commission Regulation (EC) No 1663/95 of 7 July 1995 laying down detailed rules for the application of Council Regulation (EEC) No 729/70 regarding the procedure for the clearance of the accounts of the EAGGF Guarantee Section (OJ L 158, 8.7.1995, p. 6).
- (²) Regulation (EEC) No 729/70 of the Council of 21 April 1970 on the financing of the common agricultural policy (OJ L 94, 28.4.1970, p. 13).
- (³) Council Regulation (EC) No 1258/1999 of 17 May 1999 on the financing of the common agricultural policy (OJ L 160, 26.6.1999, p. 103).

Appeal brought on 6 March 2008 by Luigi Marcuccio against the judgment of the Civil Service Tribunal delivered on 14 December 2007 in Case F-21/07, Marcuccio v Commission

(Case T-114/08 P)

(2008/C 107/69)

Language of the case: Italian

Parties

Appellant: Luigi Marcuccio (Tricase, Italy) (represented by G. Cipressa, lawyer)

Other party to the proceedings: Commission of the European Communities

Form of order sought by the appellant

In any event:

- Annul the judgment under appeal fully and unconditionally;
- declare that the action at first instance was brought by the appellant *intra dies*;
- declare that the action at first instance was wholly admissible.

Primarily:

- Grant the claims set out in the action at first instance fully and unconditionally;
- order the respondent to make reimbursement to the appellant of all the costs, disbursement and fees incurred by him in relation to both the proceedings at first instance and the instant appeal proceedings.

In the alternative:

- Refer the case back to the Civil Service Tribunal, with a different composition, for a fresh decision.

Pleas in law and main arguments

The appellant relies on the following grounds of appeal:

1. Absolute failure to state reasons, given the failure to dispel the confusion between the concept of damage and the concept of the occurrence of an event giving rise to the kind of damage referred to in the second paragraph of Article 288 (formerly 215) EC.
2. Infringement of Article 288 EC, the first paragraph of Article 46 of the Statute of the Court of Justice, Article 90 of the Staff Regulations of Officials of the European Communities ('the Staff Regulations'), the principles of legal certainty, the right to judicial protection and the right to a fair trial.
3. Incorrect and unreasonable interpretation and application of the concept of starting date or *dies a quo* for the purpose of determining a reasonable period within which to bring an action under Article 288 EC.
4. Absolute failure to state grounds by reason, *inter alia*, of a total failure to make preliminary inquiries, and infringement of Article 90 of the Staff Regulations and of the relevant general principles of law in the analysis of the date from which the limitation period for bringing an action under Article 288 EC begins to run.
5. Absolute failure to state grounds in relation to the appellant's alleged delay in bringing an action under Article 288 EC.
6. Infringement of Articles 235 and 288 EC relating to the jurisdiction of the Community court in actions for compensation for damage and unconsidered, arbitrary and illogical failure properly to apply the relevant case-law.
7. Infringement of the standards for fair trials, with reference in particular to the standards laid down by the European Convention for the Protection of Human Rights and Fundamental Freedoms.