before the Court of First Instance of the European Communities on 25 April 1995 by Benjamin Laurence Lay, represented by Richard Gordon QC and Joanne Keddie, Solicitor, Dawson & Co, 2 New Square, Lincoln's Inn, London WC2A 3RZ, England.

The applicant claims that the Court should:

— declare that the decision of the Council and/or the Commission of 13 February 1995 declining non-contractual liability in respect of the application by the applicant for measures providing compensation for himself, and the group of SLOM 3 producers, is null and/or void and of no effect and/or annul the said decision;

— declare that the Council and/or the Commission have failed to implement a Regulation or take such other measures to introduce compensation for the applicant and the group of SLOM 3 producers;

— order that the costs of these proceedings be borne by the defendants.

Pleas in law and main arguments adduced in support:

The applicant, a SLOM 3 dairy producer, complains that no arrangements have been made by the Community institutions to make available for this category of milk producers compensation measures similar to those introduced for SLOM 1 and 2 producers pursuant to Council Regulation (EEC) No 2187/93.

According to Regulation (EEC) No 2187/93, producers who were allocated a special reference quantity under Article 3a, pursuant to Regulation (EEC) No 2055/93, are excluded from claiming compensation in relation to their allocation of SLOM 3 quota.

The applicant submits that this exclusion of the group of SLOM 3 producers represents a serious violation of a legitimate expectation of compensation for the period from the end of his non-marketing scheme to the date on which he received an allocation of SLOM 3 quota. Such a failure to provide for compensation is contrary to the principles of Community law of respect for property and of non-discrimination between equivalent producers.

Action brought on 25 April 1995 by Donald George Gage and David John Gage against the Council of the European Union and the Commission of the European Communities

(Case T-108/95)

(95/C 208/62)

(Language of the case: English)

An action against the Council of the European Union and the Commission of the European Communities was brought before the Court of First Instance of the European Communities on 25 April 1995 by Donald George Gage and David John Gage, represented by Richard Gordon QC and Joanne Keddie, Solicitor, Dawson & Co, 2 New Square, Lincoln's Inn, London WC2A 3RZ, England.

The applicants claim that the Court should:

— declare that the decision of the Council and/or the Commission of 13 February 1995 declining non-contractual liability in respect of the application by the applicants for measures providing compensation for them, and the group of SLOM 3 producers, is null and/or void and of no effect and/or annul the said decision;

— declare that the Council and/or the Commission have failed to implement a Regulation or take such other measures to introduce compensation for the applicants and the group of SLOM 3 producers;

— order that the costs of these proceedings be borne by the defendants.

Pleas in law and main arguments adduced in support:

The pleas in law and main arguments are the same as those raised in Case T-107/95.

Action brought on 8 May 1995 by Peter Dethlefs and 38 other applicants against the Council of the European Union and the Commission of the European Communities

(Case T-112/95)

(95/C 208/63)

(Language of the case: German)

An action against the Council of the European Union and the Commission of the European Communities was brought before the Court of First Instance of the European Communities on 8 May 1995 by Peter Dethlefs and 38 other applicants, of Groven, Federal Republic of Germany. The applicants are represented by Bernd Meisterernst, Mechtild Düsing, Dietrich Manstetten, Dr Frank Schultze and Dr Winfried Haneklaus, of Münster (Federal Republic of Germany), whose address for service in Luxembourg is at the Chambers of Dupong & Associates, 14a Rue des Bains.

The applicants claim that the Court should:

— order the defendants jointly and severally to pay to the applicants in respect of the period between the expiry of the two-month period for acceptance contained in Article 14 of Council Regulation (EEC) No 2187/93 of

22 July 1993 and 3 August 1994 (or, in the case of three of the applicants, 29 June 1994) interest amounting to 8 % of the amount of compensation paid to them in addition to 8 % thereon from delivery of the judgment,

— order the defendant to pay the costs of the proceedings and in particular the lawyers' costs.

Pleas in law and main arguments adduced in support:

The applicant producers, who accepted the compensation offered to them by the competent German authority within the two-month period under Article 14 of Council Regulation (EEC) No 2187/93 providing for an offer of compensation to certain producers of milk and milk products temporarily prevented from carrying on their trade, are claiming compensation for the damage suffered by them on the ground that the interest on delayed payment provided for in Article 12 of that Regulation in the amount of 8 % of the amount of compensation was not paid for the whole of the period in respect of which they were entitled. The Commission substantiated its refusal to pay the interest claimed by the fact that the applicants were too late in withdrawing their proceedings for compensation brought before the Court in 1990.

The applicants take the view that the payment of the interest at issue cannot depend on the date of withdrawal of proceedings, which is merely a formal step, since no such condition is contained in Regulation (EEC) No 2187/93.

Action brought on 10 May 1995 by Società Cementerie del Tirreno SpA against the Commission of the European Communities

(Case T-116/95)

(95/C 208/64)

(Language of the case: Italian)

An action against the Commission of the European Communities was brought before the Court of First Instance of the European Communities on 10 May 1995 by Società Cementerie del Tirreno SpA ('Cementir'), having its registered office in Rome, represented by Gian Michele Roberti and Antonio Tizzano, both of the Naples Bar, with an address for service in Luxembourg at the Chambers of Alain Lorang, 51 Rue Albert 1[er].

The applicant claims that the Court should:

— annul the decision of rejection contained in the Commission's letter of 2 March 1995, and

— order the Commission to pay the costs.

Pleas in law and main arguments adduced in support:

In connection with its investigation of European cement producers (Cases IV/33.126 and 33.322 — Cement), the Commission asked Cementir to produce figures for its invoicing of grey cement and clinker for 1992 and 1993. In compliance with that request, Cementir communicated to the Commission figures which erroneously included amounts relating to supplies of goods and services that were completely different from sales of grey cement and clinker. Cementir became aware of the error only on examining the Decision which concluded that investigation (Commission Decision No 94/815/EC of 30 November 1994), whereupon it informed the Commission that the invoicing figures previously supplied were too high by reason of an accounting error. At the same time, the company attached an accountants' certificate identifying and quantifying the amounts erroneously added to the cement invoices and determining the exact invoicing figure which the Commission should have used in calculating the fine imposed on Cementir.

By letter from the Director-General for Competition of 2 March 1995, the Commission rejected that request for rectification. That decision of rejection forms the subject-matter of the present action.

Cementir argues that the decision should be annulled for the following reasons:

— In its decision, the Commission took into consideration, for the calculation of the fine imposed on Cementir, invoicing which was erroneous because it included amounts that had nothing to do with sales of grey cement and clinker, the subject-matter of the dispute. The Commission's assertions in its letter of 2 March 1995, implicitly acknowledging the error in calculation but attempting to dispute its relevance for the purposes of determining the fine and thus for the request for rectification, appear to be unfounded and irrelevant.

— The Commission's refusal to amend the amount of the fine on the basis of the corrected invoicing figures, which, moreover, the Commission has not disputed, seriously penalizes Cementir without justification. In the event, the fine has been calculated on the basis of erroneous figures and is thus disproportionate; it has also been calculated on a different and more unfavourable basis than that used for other undertakings which merely communicated the figures for grey cement sales, thereby breaching the principle of equality of treatment.