

The choice of a 5 % profit margin is difficult to understand in that in a regional procedure limited to the United Kingdom concerning the same product, which led the Commission to accept quantitative undertakings from May 1994, it accepted a profit margin of 10 %.

The applicant finally considers that a 15 % profit margin is the vital minimum which would enable the Community industry, on the one hand, to finance necessary sustaining investment and, on the other hand, to reinvest for updating and replacing existing capacities.

Action brought on 27 November 1995 by the Stichting Certificatie Kraanverhuurbedrijf and the Federatie van Nederlandse Kraanverhuurbedrijven against Commission of the European Communities

(Case T-213/95)

(96/C 31/47)

(Language of the case: Dutch)

An action against the Commission of the European Communities was brought before the Court of First Instance of the European Communities on 27 November 1995 by the Stichting Certificatie Kraanverhuurbedrijf and the Federatie van Nederlandse Kraanverhuurbedrijven, whose registered offices are both at Culemborg (Netherlands), represented by M. van Empel, of the Amsterdam Bar, and T. Janssens, of the Brussels Bar, with an address for service in Luxembourg at the Chambers of M. Loesch, 11 Rue Goethe.

The applicants claim that the Court should:

1. hold the European Community liable for the damage which the applicants are suffering and will suffer as a result of the unlawful conduct of the Commission cited in the application;
2. order the European Community to pay compensation for that damage and to establish the extent of the damage in consultation with the applicants, and if the parties are not able to reach a mutual agreement regarding the determination of the extent of the damage to declare that the Court will establish its extent, if necessary after appointing an expert in order to quantify exactly what damage has been suffered;
3. order the European Community to pay the costs of these proceedings.

Pleas in law and main arguments adduced in support:

The applicants claim that despite an express call for it to act, made pursuant to Article 175 of the EC Treaty, the

Commission has hitherto failed to adopt a final decision regarding their application for a negative clearance or an exemption for the rules for the certification of crane hire businesses which they have notified, and which include a prohibition on the hiring of non-certificated cranes. In interlocutory proceedings the national court has ordered that the prohibition of hiring such cranes is not to be applied until the Commission has adopted a final decision. The applicants claim that as a result of the prohibition by the court there is a danger that the national Raad voor de Certificatie will withdraw its recognition of the applicants, which threatens their existence and impairs their good reputation.

The applicants consider that the Commission's failure is unlawful because it infringes Article 6 of the European Convention on the Protection of Human Rights, in particular the requirement for a fair timelimit to proceedings, and because it infringes general principles of law, namely the principle of legal certainty, the principle of the protection of legitimate expectations and the applicants' right to a hearing.

Removal from the register of Joined Cases T-97/93 and others ⁽¹⁾

(96/C 31/48)

(Language of the case: German)

By order of 11 December 1995 the President of the First Chamber (Extended Composition) of the Court of First Instance of the European Communities ordered the removal from the register of Cases T-142/93: Heinz Günther Herken v. Council of the European Union and Commission of the European Communities, and T-149/93: Hans Röper v. Council of the European Union and Commission of the European Communities.

⁽¹⁾ OJ No C 178, 18. 7. 1990, OJ No C 146, 5. 6. 1991 and OJ No C 44, 19. 2. 1992.

Removal from the register of Case T-224/94 ⁽¹⁾

(96/C 31/49)

(Language of the case: English)

By order of 18 December 1995 the President of the Fifth Chamber (Extended Composition) of the Court of First Instance of the European Communities ordered the removal from the register of Case T-224/94: Ferchimex N.V. v. Council of the European Union, supported by the Commission of the European Communities.

⁽¹⁾ OJ No C 218, 6. 8. 1994.