

Action brought on 23 September 1996 by Confederazione Nazionale Coltivatori Diretti (COLDIRETTI) and Others against Commission of the European Communities and Council of the European Union

(Case T-149/96)

(96/C 370/34)

(Language of the case: Italian)

An action against the Commission of the European Communities and Council of the European Union was brought before the Court of First Instance of the European Communities on 23 September 1996 by Confederazione Nazionale Coltivatori Diretti (COLDIRETTI), established in Rome, and Others, represented by Roberto G. Aloisio, of the Rome Bar and Fabrizio Massoni, of the Brussels Bar, with an address for service in Luxembourg at the Chambers of Jim Penning, 31 Grand Rue.

The applicants claim that the Court should:

- order the defendants, in accordance with the second paragraph of Article 215 of the EC Treaty, jointly and severally to pay the sum due to each of the applicants by way of compensation for damage to be assessed during the proceedings, together with default interest at the rate of 10% and taking inflation into account until actual payment (see Case C-308/87 Grifoni v. EAEC [1994] ECR I-341),
- annul Council Regulation (EC) No 1357/96 in so far as it limits the amount of compensation to be allocated to farmers and, in any event, quantifies that compensation by reference solely to lost income and not to increased costs,
- order the defendants or the defendant held to be liable to pay the costs of the proceedings.

Pleas in law and main arguments adduced in support:

The applicants, who are the Confederazione Nazionale Coltivatori Diretti and numerous individual owner-occupier farmers, seek compensation for damage which they claim has been caused by the way in which the Community institutions responded to the collapse of the beef and veal market as a result of the outbreak of BSE (bovine spongiform encephalitis, known as 'mad cow disease') in the United Kingdom.

According to the applicants, the defendants did not make proper use of the powers and duties which they possess in order to avert crises and the danger of crises with harmful consequences for the health of Community nationals. They allege that the Community institutions:

- have misused the powers available to them,
- have failed to make use in time of the repressive measures provided for by Community legislation which would have eradicated the epidemic,
- have negligently underestimated the extent of the problem and, by failing to tackle it with the requisite decisiveness, have allowed infected beef and veal to circulate in Europe.

The applicants point out in this respect that when a public health emergency (foot-and-mouth disease) occurred in Italy, the farmers slaughtered all the animals and refrained from exporting infected meat, thus dealing with the root of the problem. That has not been done by the United Kingdom, on which the Community has not imposed any sanction likely to eliminate the problem. Instead, it has merely formally embargoed exports of United Kingdom cattle, and has failed to do what it unarguably ought to have done: order the United Kingdom to resolve the problem within its own borders also. According to the applicants, it constitutes serious negligence to believe that the spread of the disease can be halted simply by restricting exports.

As regards the alleged invalidity of Regulation No 1357/96, the applicants state that they seek its annulment only if it precludes the application for full compensation for the loss suffered. The regulation provides for the payment of additional premiums to producers of cattle 'with a view to ensuring the future of the sector'. The applicants claim that those provisions are invalid, in so far as they provide for the payment of additional premiums in respect of losses of income to the producers and not in respect of the higher costs which they are forced to bear. In their view, payment of those additional premiums cannot deprive the injured parties of their right to full compensation for all losses suffered.

Action brought on 16 October 1996 by Max Kögler against the Court of Justice of the European Communities

(Case T-160/96)

(96/C 370/35)

(Language of the case: German)

An action against the Court of Justice of the European Communities was brought before the Court of First Instance of the European Communities on 16 October 1996 by Max Kögler, of Konz (Federal Republic of Germany), represented by Theo Baltes, Rechtsanwalt, of Trier (Federal Republic of Germany), with an address for service in Luxembourg at the Chambers of René Weber, of Messrs Weber, Stein & Thiel, 3 Rue de la Loge.

The applicant claims that the Court should:

- annul the decision of the Complaints Committee of the Court of Justice of 1 July 1996,
- recalculate and definitively determine the applicant's retirement pension for the period from 1 July 1991 to 30 June 1994 on the basis of the weightings for Berlin fixed annually by the Council,
- alternatively, designate a date in the near future when that calculation and determination will take place.

Pleas in law and main arguments adduced in support:

The applicant states, with regard to the admissibility of his claim, that it is directed not against an act of the appointing authority but against a failure to act. That failure to act consists in the fact that, because the weightings have still not been definitively fixed, the applicant's pension for the period from 1 July 1991 to 30 June 1994 has not yet been finally determined.

Moreover, the action is also well founded since there appears to be no reason why the principles applying to officials residing in the Federal Republic of Germany should differ from those applying in respect of all other countries, or why the appointing authority should refrain from applying the principles clearly obtaining since June 1994 to the preceding period as well.

**Action brought on 17 October 1996 by Gundolf Bosetti
against the Commission of the European Communities**

(Case T-161/96)

(96/C 370/36)

(Language of the case: French)

An action against the Commission of the European Communities was brought before the Court of First Instance of the European Communities on 17 October 1996 by Gundolf Bosetti, residing in Luxembourg, represented by Gilles Bounéou, of the Luxembourg Bar, with an address for service in Luxembourg at his Chambers, 15 Avenue du Bois.

The applicant claims that the Court should:

- annul the decision of the Commission of 31 October 1995 refusing to admit the independent trade union 'Action et Défense — Luxembourg' to the framework agreement of 20 September 1974 concerning relations between the Commission and trade unions and staff associations,
- order the Commission to pay all the costs.

Pleas in law and main arguments adduced in support:

The applicant, deputy general secretary of the trade union 'Action et Défense — Luxembourg', states that on 9 October 1995 that organization applied to be admitted to the framework agreement of 20 September 1974 concerning relations between the Commission and trade unions and staff associations. On 31 October 1995 the competent Member of the Commission rejected the application on the ground that, as matters then stood, he was not able to assess the extent to which the organization in question was a representative body.

The applicant considers that that decision disregarded Articles 9 and 24a of the Staff Regulations of officials, as

interpreted by case-law. He maintains that the Commission has not accorded the union which he represents all the rights to which it is entitled, inasmuch as the practical effect of the contested decision results is to prohibit it from taking part in meetings organized between the institutions and trade unions and staff associations, to refuse it the necessary means for properly carrying out its tasks, to deny it the right to disseminate information and to prohibit it from carrying on trade union activities during working hours on the Commission's premises.

The applicant also complains that the Commission has not complied with the framework agreement and that it has distorted the aims thereof.

Lastly, he pleads infringement of the obligation to provide a statement of reasons arising from the second paragraph of Article 25 and Article 90 (1) of the Staff Regulations.

**Action brought on 18 October 1996 by Sandro Forcheri
against the Commission of the European Communities**

(Case T-162/96)

(96/C 370/37)

(Language of the case: French)

An action against the Commission of the European Communities was brought before the Court of First Instance of the European Communities on 18 October 1996 by Sandro Forcheri, residing in Brussels, represented by Marc-Albert Lucas of the Liège Bar, with an address for service in Luxembourg at the Chambers of Evelyne Korn, 21 Rue de Nassau.

The applicant claims that the Court should:

- annul or declare to be unlawful the failure of the Commission to second the Head of Division B/4 of DG XXI to SAMCOMM on the date that he took up his duties or at the very least with effect from 29 October 1992,
- annul the Commission's decision of 12 December 1995 refusing the applicant's request for payment of the differential allowance provided for by Article 7 (2) of the Staff Regulations,
- annul the Commission's decision of 24 July 1996 granting his complaint in part, in that it fails to accept that he has, since 29 October 1992, been performing temporarily the duties of Head of Division XXI B/4 and in that it therefore does not grant him the differential allowance from 30 January 1993 and without limitation in time,
- order the Commission to pay him that differential allowance, together with interest for late payment at the rate of 8% per annum from the date each month on which that allowance should have been paid until full payment,
- order the Commission to pay the costs.