

*Pleas in law and main arguments adduced in support:*

By the contested decision, the defendant, amending Decision C(95) 444/3 of 5 April 1995 concerning the grant of a contribution from the EAGGF, changed the Leader II Operational Programme as regards Point 1.3 and Point 6.1, and in so doing failed to include among the areas for action the territory of the Comunità Montana Penisola Sorrentina, since 'on the basis of the provisions of the programme, it does not appear necessary to promote and implement further Programmi di Azione Locale (Local Action Programmes — "PALs"), in view of the fact that in the latter area socioeconomic development is more advanced and more integrated than in the other areas concerned'. According to the applicant, those statements are not only incorrect but also lack any basis whatsoever.

In support of its claims, the applicant alleges infringement of Article 190 of the Treaty of Rome, breach of essential procedural requirements, breach of the obligation of sound administration and of the principle of the protection of legitimate expectations, as well as a total lack of any statement of reasons and manifest lack of any proper basis.

It is alleged, first, that the contested decision is based on the misconception that a PAL had already been approved for the area in question, in disregard of the fact that the PAL submitted by the applicant had not been granted financing. Furthermore, the area in question is not among the most developed in Campania.

The applicant also alleges that the choice made by the defendant is contradictory. It is considered in that regard that in the Regional Programme for implementation of the Leader II, described above, the Campania Region, in applying Directive 75/268/EEC<sup>(1)</sup>, initially included Penisola Sorrentina among the so-called 'less-favoured' areas for action on the basis of certain socio-economic indicators and then, in the light of the same indicators, decided that it was unnecessary to promote and implement further PALs in that area.

The defendant confined itself to excluding the Sorrentina Area on the ground that it was developed, without however giving the slightest indication of the reasons justifying that decision and without undertaking an appropriate inquiry.

In the applicant's view, such an inquiry would have made it clear that the area in question is classified, within the meaning of the abovementioned Directive 75/268/EEC, as 'a mountain area and less favoured area' and that, for that precise reason, it was included in the Leader II Programme, among priority areas for action.

**Action brought on 12 May 1997 by the Region of Tuscany against the Commission of the European Communities**

(Case T-265/97)

(97/C 387/40)

*(Language of the case: Italian)*

An action against the Commission of the European Communities was brought before the Court of Justice of the European Communities on 12 May 1997 by the Region of Tuscany, represented by Vito Vacchi and Lucia Bora, of the Florence Bar, with an address for service in Luxembourg at the Chambers of Paolo Benocci, 50 Rue de Vianden, and subsequently referred, on the ground of manifest lack of jurisdiction of the Court of Justice, to the Court of First Instance by order of the Court of Justice of 1 October 1997.

The applicant claims that the Court should:

- annul Memorandum VI/040551 of the European Commission — Directorate General for Agriculture — of 21 November 1994,
- annul the act — never notified to the applicant region — by which the European Commission withdrew the Community assistance earmarked under the Integrated Mediterranean Programme (IMP) for Project No 88.20.IT.006.0 (works for the supply of potable water in Tuscany),
- annul the European Commission's memorandum of 31 January 1997, received by the applicant on 7 February 1997, by which the Commission informed it that the assistance had been withdrawn.

*Pleas in law and main arguments adduced in support:*

The pleas in law and main arguments are those adduced in Case T-81/97 Region of Tuscany v. Commission<sup>(1)</sup>.

<sup>(1)</sup> OJ C 166, 31. 5. 1997, p. 21.

**Action brought on 13 October 1997 by Azienda Agricola Tre e Mezzo against Commission of the European Communities**

(Case T-269/97)

(97/C 387/41)

*(Language of the case: Italian)*

An action against the Commission of the European Communities was brought before the Court of Justice of

<sup>(1)</sup> Council Directive 75/268/EEC of 28 April 1975 on mountain and hill farming and farming in certain less-favoured areas (OJ L 128, 19. 5. 1975, p. 1).

the European Communities on 13 October 1997 by Azienda Agricola Tre e Mezzo, represented by Carlo Piccoli and Fabrizio Fabbri, of the Forlì Bar (Cesena), and François Turk, of the Luxembourg Bar, with an address for service in Luxembourg at the latter's Chambers, 13A Avenue Guillaume.

The applicant claims that the Court should:

- declare that the applicant has *locus standi* as such,
- annul Commission Regulation (EC) No 1488/97 of 29 July 1997 *published in Official Journal of the European Communities* L 202 of 30 July 1997, p. 12, in so far as it does not include, in the new wording of Annex IIb of Council Regulation (EEC) No 2092/91, the following plant-health products: preparations from *Ryania speciosa*, propolis, diatomaceous earth, stone meal, Bordeaux mixture, Burgundy mixture, sodium silicate, sodium bicarbonate, and plant and animal oils,
- order the European Commission to pay the costs.

*Pleas in law and main arguments adduced in support:*

The applicant, a company producing organic products and duly accredited as such by one of the eight certificatory authorities recognized by the Italian State, opposes the removal by the contested regulation <sup>(1)</sup> of certain plant-health products from the list of those allowed in organic agriculture.

In support of its claims, the applicant alleges, first, infringement of the last indent of Article 155 of the EC Treaty, which provides that the powers conferred on the Commission by the Council are to be exercised for the implementation of the rules laid down by the Council. The applicant considers that Council Regulation No 2092/91 <sup>(2)</sup> was designed to favour and promote the development and expansion of organic production methods, by regulating that activity and providing incentives in the form of contributions and financing. In actual fact, the wording of Annex IIb, and all the products included in it, resulted from a precise choice which mentioned specified products rather than others, regardless of whether or not their use had been authorized by individual Member States. The Commission's decision to exclude from the list of permitted products the new plant-protection products mentioned above, solely by reference to the criterion of lack of 'authorization or use' is therefore open to criticism.

The applicant also alleges misuse of powers, in that the Council, by Regulation No 2078/92 <sup>(3)</sup>, introduced agricultural and environmental measures capable of

bringing about conversion of European agriculture to farming of a kind which uses everdecreasing quantities of plant-protection products and to that end a large proportion of the aid in the industry is directed towards organic farming — but by adopting the contested regulation, the defendant made a sudden change of direction, pursuing aims different from those declared earlier, so that more difficulties and problems are encountered in implementing organic methods owing to the reduction of the technical resources available to farmers who are adopting or wish to adopt such methods.

<sup>(1)</sup> Commission Regulation (EC) No 1488/97 of 29 July 1997 amending Council Regulation (EEC) No 2092/91 on organic production of agricultural products and indications referring thereto on agricultural products and foodstuffs (OJ L 202, 30. 7. 1997, p. 12).

<sup>(2)</sup> OJ L 198, 22. 7. 1991, p. 1.

<sup>(3)</sup> Council Regulation (EEC) No 2078/92 of 30 June 1992 on agricultural production methods compatible with the requirements of the protection of the environment and the maintenance of the countryside (OJ L 215, 30. 7. 1992, p. 85).

#### Action brought on 16 October 1997 by Pierre Richard against the European Parliament

(Case T-273/97)

(97/C 387/42)

(Language of the case: French)

An action against the European Parliament was brought before the Court of First Instance of the European Communities on 16 October 1997 by Pierre Richard, of Luxembourg, represented by André Lutgen, of the Luxembourg Bar, with an address for service in Luxembourg at his Chambers, 1, Rue Jean-Pierre Brasseur.

The applicant claims that the Court should:

- annul the decision of the appointing authority rejecting the applicant's application for the post advertised by Notice of Vacancy No 8011,
- annul the decision to appoint the successful Swedish candidate,
- annul the decision taken by the Bureau, at its meeting of 17 July 1997, to reject the applicant's complaint against that decision,
- take formal notice that he reserves the right to claim compensation, as and when appropriate, for the material and non-material damage suffered.