By the contested decisions, the Commission declared a proposed concentration between Salzgitter AG and Mannesmannröhren-Werke AG to be compatible with the common market pursuant to Regulation (EEC) No 4064/89 and authorised the proposed concentration pursuant to Article 66(2) CS.

The applicants are contesting the decisions on the basis of the fourth paragraph of Article 230 EC and the second paragraph of Article 33 CS. They consider that the contested measures are of direct and individual concern to them.

The applicants complain, in their criticism of the Commission, that the contested decisions omit any examination of the facts and law with regard to individual product markets which are directly affected by the concentration, despite the fact that the proposed concentration radically alters the structural conditions of competition on those markets. In addition, the Commission has unlawfully omitted to examine from a factual and legal standpoint the effects of the concentration which result from the fact that the concentration has led to interlinking between Salzgitter AG and third parties. That interlinking is liable significantly to prejudice the effectiveness of competition on the markets concerned.

Action brought on 19 December 2000 by Carmelo Morello against the Commission of the European Communities

(Case T-376/00)

(2001/C 61/38)

(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 19 December 2000 by Carmelo Morello, residing in Brussels, represented by Jacques Sambon and Pierre Paul Van Gehuchten, of the Brussels Bar.

The applicant claims that the Court should:

— annul the Commission's decision appointing another person to post COM/113/99 IV/F/2 'Motor vehicles and other means of transport', corresponding to a grade A5/A4 post of Head of Unit;

— annul the Commission's decision rejecting the application of the applicant for the post in question;

— award the sum of 120 000 euro, subject to increase or decrease during the course of the proceedings, by way of compensation for the non-material damage suffered by the applicant as a result of the irregular or incomplete information gathered by the defendant in relation to the applicant's personal file and the state of uncertainty and worry in which he has been placed with regard to his future career;

— award the sum of 25 000 euro, subject to increase or decrease during the course of the proceedings, by way of compensation for the material damage suffered by the applicant as a result of his having been rejected as a candidate for the post to be filled and of his having thus lost an opportunity of promotion;

— order the Commission to pay all the costs.

Pleas in law and main arguments

The applicant in the present case contests the refusal by the appointing authority to appoint him to the post of head of the unit responsible for 'Motor vehicles and other means of transport'.

In support of his claims, he puts forward the following pleas in law:

— infringement of Article 25 of the Staff Regulations and of the obligation to provide a statement of reasons;

— infringement of Article 45 of the Staff Regulations, of the rules governing the promotion procedure and of the principle of equal treatment;

— a manifest error of assessment in the present case;

— misuse of power and infringement of Article 7 of the Staff Regulations.

Action brought on 22 December 2000 by Monsanto Company against the Council of the European Union

(Case T-382/00)

(2001/C 61/39)

(Language of the case: English)

An action against the Council of the European Union was brought before the Court of First Instance of the European Communities on 22 December 2000 by Monsanto Company, a company established under the laws of Delaware (USA), represented by Clive Stanbrook Q.C. and Wilko van Weert, of Stanbrook & Hooper, Brussels.

The applicant claims that the Court should:

— annul the Council Decision of 28 September 2000 amounting to a refusal to adopt a Maximum Residue Limit under Regulation No 2377/90, with regard to recombinant bovine somatotrophin;

— order that the costs of the proceedings be borne by the Council.

Pleas in law and main arguments

The applicant is a life sciences company, in the business of developing products to meet the growing global need for food. It has developed a veterinary medicinal product called sometribove. This product is classified as a recombinant bovine somatotrophin ('BST') and when administered to dairy cows has the effect of increasing their milk production. Before veterinary products, such as sometribove, can be put on the Community market, a maximum residue limit ('MRL') must be established, in conformity with Article 7 of Council Regulation No 2377/90 laying down a Community procedure for the establishment of maximum residue limits of veterinary medicinal products in foodstuffs of animal origin ([1]).

On 14 January 1997, the Commission decided to reject the request for the inclusion of sometribove (bovine somatropine) in Annex II to Council Regulation (EEC) No 2377/90, in spite of the fact that the Committee for Veterinary Medicinal Products ('CVMP') had come to the conclusion that it was not necessary for the protection of public health to establish MRL for BST and had recommended the inclusion of this product in the list of substances not subject to MRL in Annex II. This decision was annulled by the Court of First Instance.

As the result of the judgment, the Commission decided to send the file back to the CVMP for a new opinion on BST. In July 1999, the CVMP re-evaluated BST taking into account all the latest available scientific information and confirmed its previous opinion that residues of BST are safe and that BST should therefore be included in Annex II. On 13 July 2000, the Commission submitted to the Council its final proposition for inclusion of BST in Annex II. On 28 September 2000, the Council decided not to adopt the Commission's proposal. It is this decision that is challenged by the applicant in the present case.

The applicant contends that the contested decision should be annulled for the following reasons:

1. Infringement of Article 3 of Regulation No. 2377/90. The applicant maintains that:

   (a) the Council could not reject the Commission's proposal in the absence of any new information or any reassessment of existing information on the bases of which the opinion of the CVMP might be called into question;

   (b) the Council wilfully disregarded the findings of the CVMP.

2. Breach of principle of proportionality in light of the special circumstances of the case, namely:

   (a) that there is no scientific evidence of a risk to human health;

   (b) that milk or milk products are imported from third countries where BST is administered to cows; and

   (c) any public-health objective has already been more than adequately assured through the adoption of a ban on the marketing of BST.

3. Wrongful or disproportionate application of the precautionary principle.

([1]) OJ 1990 L 224, p. 1.

Action brought on 22 December 2000 by Beamglow Ltd., against the Council of the European Union, the European Parliament and the Commission of the European Communities

(Case T-383/00)

(2001/C 61/40)

(Language of the case: English)

An action against the Council of the European Union, the European Parliament and the Commission of the European Communities was brought before the Court of First Instance of the European Communities on 22 December 2000 by Beamglow Ltd., a company incorporated under the laws of the United Kingdom, represented by Denis Waelbroeck, of Liedekerke Siméon Wessing Houthoff, Brussels (Belgium).

The applicant claims that the Court should:

— order the European Community, as represented here by the Council of the European Union, the European Parliament and the Commission of the European Communities, as jointly and severally liable, to repair the damage suffered by the applicant as a result of the unlawful behaviour of the European Community and to set the amount of compensation at GBP 2 042 000 for the period up to December 2000 plus GBP 79 000 per month from that date to the date of judgment or any other amount reflecting the actual damage suffered by the applicant as established by it in the course of the proceedings;