

COURT OF FIRST INSTANCE

Action brought on 6 December 2001 by Antonio Enrico Tatti against Commission of the European Communities**(Case T-296/01)**

(2002/C 56/23)

(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 6 December 2001 by Antonio Enrico Tatti, residing in Overijse (Belgium), represented by Lucas Vogel, lawyer.

The applicant claims that the Court should:

- annul the decision of the appointing authority of 16 August 2001 rejecting the complaint lodged by the applicant on 11 February 2001, challenging the decision of the appeal assessor of 21 November 2000 refusing to review the applicant's staff report;
- order the defendant to pay damages amounting to EUR 2 500;
- order the defendant to pay the costs.

Pleas in law and main arguments

In support of his claims, the applicant alleges infringement of Articles 5, 6 and 7 of the general provisions implementing Article 43 of the Staff Regulations inasmuch as the reporting procedure is irregular and in particular that the time-limit to which the administration should have adhered in drawing up the staff report was not observed. The applicant further claims infringement of Article 43 of the Staff Regulations, manifest error of assessment and breach of the principle of non-discrimination. According to the applicant, his staff report was drawn up taking account of arbitrary rules for reporting on staff which fettered subsequent reporting officers in their discretion.

Action brought on 7 December 2001 by Julia Abad Pérez and Others against the Council of the European Union and the Commission of the European Communities**(Case T-304/01)**

(2002/C 56/24)

(Language of the case: Spanish)

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 7 December 2001 by Julia Abad Pérez and Others, all of them established in Spain, represented by Miquel Roca Junyent, Joan Roca Sagarra and Marta Pons de Vall Alomar, lawyers.

The applicants claim that the Court should:

- declare that the Council and the Commission have acted unlawfully and are thus liable under Article 288 EC for having spread the BSE crisis within the territory of the European Union and, consequently, for the damage alleged in the present application;
- order the Council and the Commission jointly and severally to pay compensation for the damage caused to the applicants as a result of that crisis, quantified in the present application in the sum of 19 438 372,69 euros, and for the non-material damage suffered by them (amounting to a further 15 % over and above the aforementioned sum, that is to say, 2 915 755,80 euros); and
- order the Council and the Commission to pay the costs.

Pleas in law and main arguments

The applicants are Spanish stockbreeders. They are claiming compensation for the damage and prejudice suffered as a result of the crisis concerning the so-called 'mad cow disease' since the outbreak of the first case of bovine spongiform encephalopathy (BSE) in Spain on 22 November 2000, which plunged the Spanish stockbreeding sector into a serious crisis from which it has still not yet managed fully to recover.

According to the applicants, each stockbreeder is currently having to bear:

- the costs of removal and destruction of specified risk material (SRM);

- in most cases, the extermination of the entire herd where a cow is found to be infected;
- a decrease in consumption of beef and a lack of consumer confidence resulting from the unpopularity of veal in the market, with the consequent direct economic cost arising from the repercussions of reports in the media of the discovery of each new case of mad cow disease or of persons afflicted by Creutzfeld-Jakob disease in any Member State of the European Union; and
- the removal of the spinal column in calves aged over 12 months.

The applicants maintain that the abovementioned damage, to which must be added the collateral and non-material damage with which they have also been faced, results primarily from a lack of action, alternatively tardy and inadequate action, on the part of the Council and the Commission, which allowed BSE to develop into the most serious agricultural and food crisis to affect the Union since its creation. The absence of a resolute policy to control that disease with a view to its total eradication, which allowed it to spread from the United Kingdom throughout Europe, constitutes an unlawful act on the part of the Community institutions in question, since those institutions had the requisite powers, from the appearance of the very first signs of the crisis, to adopt all the legal measures needed to resolve it.

—————

Action brought on 7 December 2001 by Thalassa Seafoods SA against Commission of the European Communities

(Case T-305/01)

(2002/C 56/25)

(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 7 December 2001 by Thalassa Seafoods SA, whose registered office is at Antwerp (Belgium), represented by Jean-Pierre Brusseleers, lawyer.

The applicant claims that the Court should:

- order the Commission to pay it EUR 256 179,10 in damages, together with interest at the statutory rate of 8 % per annum as from the date on which notice was served;

- order the Commission to pay all the costs.

Pleas in law and main arguments

The applicant in the present case, a company incorporated under Belgian law carrying on business as importer into the Community of frozen fishery products originating in China, has brought an action seeking compensation for damage allegedly suffered as a result of the immediate entry into force of Commission Decision 2000/86/EC of 21 December 1999 laying down special conditions governing imports of fishery products originating in China and repealing Decision 97/368/EC⁽¹⁾, with no transitional period applicable to goods covered by contracts in force at the date of its publication. Annex B of that decision fundamentally amended the list of list of Chinese establishments approved for the export of fishery products to the Community to such an extent that almost all the suppliers with whom the applicant had concluded its contracts were no longer listed.

From September 1999 to January 2000, the applicant company concluded with several Chinese suppliers a number of purchase contracts for several containers of frozen prawns valued in excess of USD 2 000 000. Those contracts all stipulated that the goods were to be shipped between the end of September 1999 and mid-April 2000.

In support of its arguments, the applicant claims:

- that the Commission acted wrongly inasmuch as Decision 2000/86/EC was not published until 2 February 2000, although it was of immediate application and should therefore have been published without delay, that is to say by 22 December 1999 at the latest, in order to allow traders to take all appropriate measures in order to minimise their losses;
- breach of the principle of legitimate expectations;
- breach of the principle of proportionality in that the Commission itself, on the one hand, introduced transitional measures, by Decision 2000/300/EC of 18 April 2000 amending Decision 2000/86/EC⁽²⁾ and, on the other, published on 11 September 2000 a new list in which the supplier of the goods under the purchase contracts which were annulled was again admitted as an approved establishment.

⁽¹⁾ OJ 2000 L 26, p. 26.

⁽²⁾ OJ 2000 L 97, p. 15.