

**Action brought on 28 May 2004 by José Félix Merladet against the Commission of the European Communities**

(Case T-198/04)

(2004/C 262/54)

(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 28 May 2004 by José Félix Merladet, resident in Overijse (Belgium), represented by N. Lhoëst, lawyer, with an address for service in Luxembourg.

The applicant claims that the Court should:

- declare void the applicant's career development report for the period from 1 June 2001 to 31 December 2003;
- annul the express decision of the appointing authority of 12 February 2004 rejecting the applicant's complaint;
- order the Commission to pay the costs.

*Pleas in law and main arguments:*

In support of his action, the applicant relies on an irregularity in the assessment procedure. During the reference period, the applicant worked in the Commission's Delegations in New Delhi (India) and in Maputo (Mozambique) under various line managers. The applicant submits that the career development review fails to give due weight to the assessments of those managers for whom he worked longer than a month.

The applicant also relies on a manifest error of assessment and failure to state reasons.

**Action brought on 25 June 2004 by Zubeyir Aydar on behalf of Kongra-Gel and 10 others against the Council of the European Union**

(Case T-253/04)

(2004/C 262/55)

(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 25 June 2004 by Zubeyir Aydar, Fribourg, Switzerland, Haydar Isik, Maisoich, Germany, Kazim Baba, Berlin, Germany, George Aryo, Oldenzaal, Holland, Sait Uzun, Egg/Flaw, Switzerland, Lord Nicholas Rea, London, United

Kingdom, Hugo Charlton, London, United Kingdom, Roger Tomkins, Droucha, Cyprus, Mark Thomas, London, United Kingdom, Hugo Van Rompaye, Geel, Belgium and Jean Paul Nunez, Montpellier, France, represented by Mr M. Muller, Mr E. Grieves and Ms C. Vine Barristers and Ms G. Pierce Solicitor.

The applicant claims that the Court should:

- annul the part of the Council Decision 2004/306/EC of 2 April 2004 proscribing KONGRA-GEL as an alias of the PKK and Regulation 2508/2001;
- alternatively declare Regulation 2508/2001 illegal in respect of its application to the applicants;
- to take such further action as the Court may in its wisdom deem appropriate;
- order the Council to pay the costs incurred by the applicants in the present proceedings;
- order the Council to pay damages.

*Pleas in law and main arguments*

The applicants allege that in taking its decision to proscribe KONGRA-GEL as an alias of the PKK, the Council acted in breach of the EC Treaty both in respect of substance and procedure.

The applicants submit that the Council substantively breached the EC Treaty by virtue of the following:

- Failure to apply accessible, objective criteria to the correct facts;
- failure to respect fundamental rights including rights to freedom of expression and association protected under Articles 10 and 11 of the European Convention on Human Rights;
- breach of principles of Community law such as proportionality, certainty, equality and the right to a fair hearing;
- misuse of power.

Furthermore, the applicants submit that the Council breached the EC Treaty in respect of the procedure in the following ways:

- by failing to afford the applicants an opportunity to make representations prior to the proscription and/or to provide the applicants a fair hearing an/or an effective remedy by which to challenge the factual assertions relied upon by the Council, within the meaning of Articles 6 and 13 of the European Convention on Human Rights;
- by failing to provide accurate or adequate reasons as to the legal and factual basis of its decision.