

The applicants claim that the Court should:

— annul Council Regulations (EC) Nos 864/2004 and 865/2004 of 29 April 2004; in particular, as regards Regulation No 864/2004, the Court should annul the following provisions:

- i. Article 1(7) in so far as it adds a new subparagraph in Article 37(1) of Regulation (EC) No 1782/2003 of 29 September 2003;
- ii. Article 1(11) in so far as it adds a new subparagraph to paragraph 2 of Article 44 of Regulation (EC) No 1782/2003 of 29 September 2003 (OJ 2003 L 270);
- iii. Article 1(20) insofar as, when inserting a new Chapter 10b – ‘Aid for olive groves’ – into Regulation (EC) No 1782/2003 of 29 September 2003 (OJ 2003 L 270) it adds a new Article 110h and, in particular, Article 1(20)(b) of the abovementioned Article 110h;
- iv. the annex, insofar as it amends Annex VI to Regulation (EC) No 1782/2003 of 29 September 2003 (OJ 2003 L 270) adding four new rows and, in particular, the second such new row concerning olive oil insofar as it refers to Article 5 of Regulation 136/66/CEE – Aid for olive oil production – which provides for a national guaranteed amount (NGA) for Spain of 760 027 tons;

— as regards Regulation 865/2004 the Court should annul the following provision:

- Article 22 insofar as it repeals Article 5(1) of Regulation (EEC) No 1638/98 so far as concerns, exclusively, the second and third subparagraphs thereof and only to the extent that they amount to fundamental criteria for fixing the aid for income of oil producers under the new scheme based on Regulation (EC) No 1782/2003.

*Pleas in law and main arguments:*

The applicants claim that the contested regulations entail the introduction into the common agricultural policy of a new aid scheme for olive oil and table olive producers as well as a new common organisation of the markets in such products, derogating from, *inter alia*, the long-established Regulation No 136/66/EEC of the Council of 22 September 1966 on the establishment of a common organisation of the market in oils and fats. Unlike the longstanding mechanism for aid for production, the new system established by the contested regulations removes direct aid to producers and introduces a system of single payments, which means, for the olive oil sector, from 2006, a move from a policy of supporting prices and production to a new policy of support for the income of olive producers.

The applicants take the view that the abovementioned reform is not based on proper information and sectorial analysis, as indicated by the maintenance of the 760 027 tons of olive oil as, previously, a national guaranteed amount (NGA) and now,

under the new aid scheme, as a basic reference for the quantification of the new aid which replaces the aid to production which has been repealed.

In support of their claims, the applicants allege:

- breach of the principle of legal expectations. The applicants state, first, that the affected producers were particularly disappointed in the expectations created by the common organisation of the market which has now been reformed inasmuch as those affected are oil producers which, in view of the circumstances in the sector, made decisions regarding investment decisions in respect of very long-term income forecasts and, furthermore, that the reference marketing years for the new aid (from 1999/2000 to 2002/2003) happen to be periods in which oil producers who planted a crop in 1998 do not have a significant harvest.
- misuse of powers. Reliance is placed, in particular, in that regard, on the existence of an undertaking obtained by the Commission and the Council in 1998, and again in 2001, concerning the obtention by them of reliable information on the olive oil sector as a condition prior to its reform, as well as the essential need to take into account developments in production and the future of olive-growing in Spain and Portugal. None the less, according to the applicants, reliable information regarding oil production in Spain could already have been provided by the Commission itself to the International Oil Council, so that neither the Commission nor the Council could have been unaware of it.
- failure to observe the obligation to provide reasons, enshrined in Article 253 of the EC Treaty.
- breach of the principle of non-discrimination of Community producers, as laid down in the first paragraph of Article 12 of the EC Treaty.

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**Action brought on 7 July 2004 by Abdelghani Selmani against the Council of the European Union and the Commission of the European Communities**

**(Case T-299/04)**

(2004/C 284/38)

*(Language of the case: English)*

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 July 2004 by Abdelghani Selmani, Dublin, Ireland, represented by Mr C. Ó Briain Solicitor.

The applicant claims that the Court should:

- Annul Article 2 of Council Regulation (EC) No 2580/2001 <sup>(1)</sup> as well as Article 1 of Council Decision 2004/306/EC <sup>(2)</sup> insofar as they apply, or purport to apply, to the applicant;
- Annul all Council decisions made on foot of Regulation 2580/2001 having like effect to Decision 2004/306 insofar as they apply, or purport to apply, to the applicant;
- If necessary, annul Article 2 of 2001/931/CFSP <sup>(3)</sup>, Article 1 of Council Common Position 2004/500/CFSP <sup>(4)</sup> as well as all Council Common Positions adopted on the foot of Common Position 2001/931, in all cases insofar as they apply, or purport to apply, to the applicant;
- In the alternative, declare that the above measures are void, insofar as they apply, or purport to apply, to the applicant;
- Order the Council to pay the costs.

*Pleas in law and main arguments:*

Council Common Position 2001/931/CSFP was adopted with the stated purpose of implementing Resolution 1373 (2001) of the Security Council of the United Nations, calling on all signatory states to prevent the financing of terrorist acts by, inter alia, freezing the funds and resources of all persons who may be involved in such acts. Regulation 2580/2001 was adopted in order to implement this common position. Article 2 makes provision for the freezing of assets belonging to persons involved in terrorist activity, to be established by the Council in accordance with paragraph 3 of Article 2. Council Decision 2004/306 provides such a list and includes the name of the applicant, an Algerian national. As a result, the applicant's assets in Ireland, where he resides having been granted refugee status, were frozen.

In support of his application to annul the contested measures the applicant submits that the Council was not competent, under Articles 60, 301 and 308 of the EC Treaty, to adopt Article 2 of Regulation 2580/2001 and Article 1 of Decision 2004/306 and that both the Council and the Commission misused their powers under those articles. The applicant further contends that the list of names appearing in Decision 2004/306 was not established in accordance with the provisions laid down in Article 1 paragraph 4 of Common Position 2001/931. The applicant also claims that the Council had no power under Articles 15 and 34 EU to adopt Common Positions 2001/931 and 2004/500 which, according to the applicant, violate these articles and the EC Treaty in general.

The applicant also submits that the contested measures violate fundamental principles of Community law, in particular subsidiarity, proportionality and respect for fundamental human rights. He further submits that the Council and the Commission have failed to state adequate reasons as to why the measures

considered necessary could not be determined by each individual Member State.

<sup>(1)</sup> Council Regulation (EC) No 2580/2001 of 27 December 2001 on specific restrictive measures directed against certain persons and entities with a view to combating terrorism O J L 344, 28.12.2001, p. 70.

<sup>(2)</sup> Council Decision of 2 April 2004 implementing Article 2(3) of Regulation (EC) No 2580/2001 on specific restrictive measures directed against certain persons and entities with a view to combating terrorism and repealing Decision 2003/902/EC, OJ L 99, 3.4.2004, p. 28.

<sup>(3)</sup> Council Common Position of 27 December 2001 on the application of specific measures to combat terrorism, OJ L 344, 28.12.2001, p. 93.

<sup>(4)</sup> Council Common Position 2004/500/CFSP of 17 May 2004 updating Common Position 2001/931/CFSP on the application of specific measures to combat terrorism and repealing Common Position 2004/309/CFSP.

### Action brought on 9 August 2004 by Jörg-Michael Fetzer against the European Parliament

(Case T-330/04)

(2004/C 284/39)

(Language of the case: German)

An action against the European Parliament was brought before the Court of First Instance of the European Communities on 9 August 2004 by Jörg-Michael Fetzer of Tübingen (Germany), represented by Matthias Bauer, lawyer.

The applicant claims that the Court should:

- declare that the defendant infringed the rights of the applicant in connection with Competition PE/96/A (Administrators);
- admit the applicant to the second stage of a competition comparable with Competition PE/96/A;
- in the alternative, order the defendant to pay appropriate compensation, equivalent to at least one month's net salary.

*Pleas in law and main arguments:*

In July 2002, the applicant applied for Competition PE/96/A of the European Parliament. He stated in the application form that he was handicapped, in that his vision is reduced to two per cent of normal. According to the applicant, he was not allowed to write the test with a computer, being told that the examination conditions made no provision for compensating handicapped participants, and he was not given the extension of time which he requested.