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Information and Notices

<u>Notice No</u>	<u>Contents</u>	<u>Page</u>
	I Information	
	Commission	
87/C 200/01	ECU.....	1
87/C 200/02	Communication of Decisions under sundry tendering procedures in agriculture (milk and milk products).....	2
	Court of Justice	
87/C 200/03	Judgment of the Court (Sixth Chamber) of 30 June 1987 in Case 47/86 (reference for a preliminary ruling made by the Tribunal Administratif, Lille): Roquette Frères SA v. Office National Interprofessionnel des Céréales (ONIC) (<i>Cereals — Production refunds — Security</i>).....	4
87/C 200/04	Judgment of the Court (Third Chamber) of 2 July 1987 in Case 94/86 (reference for a preliminary ruling made by the Bundesfinanzhof): Maizena Gesellschaft mbH and Others v. Hauptzollamt Hamburg-Jonas (<i>Grain — Calculation of an export refund on sorbitol when the rate of refund has been fixed in advance — Deduction of the production refund granted for the basic product</i>).....	4
87/C 200/05	Judgment of the Court of 7 July 1987 in Case 420/85: Commission of the European Communities v. Italian Republic (<i>Implementation of a directive — Combined road and rail transport of goods</i>).....	5
87/C 200/06	Order of the President of the Second Chamber of 3 June 1987 in Case 161/87 R: Gert Muysers and Walter Tülp v. Court of Auditors of the European Communities (<i>Officials — Suspension of the operation of a procedure</i>).....	5
87/C 200/07	Case 161/87: Action brought on 1 June 1987 by Gert Muysers and Walter Tülp against the Court of Auditors of the European Communities.....	5
87/C 200/08	Case 169/87: Action brought on 5 June 1987 by the Commission of the European Communities against the French Republic.....	6
87/C 200/09	Case 180/87: Action brought on 10 June 1987 by Richard Hamill against Commission of the European Communities.....	7
87/C 200/10	Case 198/87: Action brought on 24 June 1987 by Jean-Pierre Kerzmann against the Court of Auditors of the European Communities.....	7

I

(Information)

COMMISSION

ECU (*)

27 July 1987

(87/C 200/01)

Currency amount for one unit:

Belgian and Luxembourg franc con.	43,0277	Spanish peseta	142,136
Belgian and Luxembourg franc fin.	43,1959	Portuguese escudo	162,531
German mark	2,07558	United States dollar	1,12139
Dutch guilder	2,33798	Swiss franc	1,71797
Pound sterling	0,700343	Swedish krona	7,23520
Danish krone	7,88168	Norwegian krone	7,65292
French franc	6,90719	Canadian dollar	1,49593
Italian lira	1501,71	Austrian schilling	14,5904
Irish pound	0,774600	Finnish markka	5,03223
Greek drachma	156,781	Japanese yen	167,648
		Australian dollar	1,58837
		New Zealand dollar	1,88469

The Commission has installed a telex with an automatic answering device which gives the conversion rates in a number of currencies. This service is available every day from 3.30 p.m. until 1 p.m. the following day.

Users of the service should do as follows:

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- give their own telex code;
- type the code 'cccc' which puts the automatic system into operation resulting in the transmission of the conversion rates of the ECU;
- the transmission should not be interrupted until the end of the message, which is marked by the code 'ffff'.

Note: The Commission also has an automatic telex answering service (No 21791) providing daily data on calculation of monetary compensatory amounts for the purposes of the common agricultural policy.

(*) Council Regulation (EEC) No 3180/78 of 18 December 1978 (OJ No L 379, 30. 12. 1978, p. 1), as amended by Regulation (EEC) No 2626/84 (OJ No L 247, 16. 9. 1984, p. 1).

Council Decision 80/1184/EEC of 18 December 1980 (Convention of Lomé) (OJ No L 349, 23. 12. 1980, p. 34).

Commission Decision No 3334/80/ECSC of 19 December 1980 (OJ No L 349, 23. 12. 1980, p. 27).

Financial Regulation of 16 December 1980 concerning the general budget of the European Communities (OJ No L 345, 20. 12. 1980, p. 23).

Council Regulation (EEC) No 3308/80 of 16 December 1980 (OJ No L 345, 20. 12. 1980, p. 1).

Decision of the Council of Governors of the European Investment Bank of 13 May 1981 (OJ No L 311, 30. 10. 1981, p. 1).

**Communication of Decisions under sundry tendering procedures in agriculture
(milk and milk products)**

(87/C 200/02)

*(See notice in Official Journal of the European Communities No L 360 of 21 December 1982,
page 43)*

(ECU)

Standing invitation to tender	Tender No.	Date of Commission Decision	Use to which the butter or the concentrated butter is to be put (Article 4 of Regulation (EEC) No 262/79)	Minimum selling price	Maximum aid level	Processing security
Commission Regulation (EEC) No 262/79 of 12 February 1979 on the sale of butter at reduced prices for use in the manufacture of pastry products, ice-cream and other foodstuffs (OJ No L 41, 16. 2. 1979, p. 1)	150	20. 7. 1987	Formula A and/or C, and/or D: with a fat content of: — 82 % or more — less than 82 % Formula B: with a fat content of: — 82 % or more — less than 82 %	105,0/100 kg butter 102,4/100 kg butter 165,0/100 kg butter 161,0/100 kg butter	— — — —	233,0/100 kg butter 233,0/100 kg butter 172,0/100 kg butter 172,0/100 kg butter
Commission Regulation (EEC) No 1932/81 of 13 July 1981 on the granting of aid for butter and concentrated butter for use in the manufacture of pastry products, ice-cream and other foodstuffs (OJ No L 191, 14. 7. 1981, p. 6)	131	20. 7. 1987	(a) for butter: Formula A and/or C, and/or D: with a fat content of: — 82 % or more — 80 % or more, but not exceeding 82 % Formula B: with a fat content of: — 82 % or more — 80 % or more, but not exceeding 82 % (b) for concentrated butter: Formula A and/or C, and/or D: Formula B:	— — — — — — — —	178,5/100 kg butter 174,0/100 kg butter 118,5/100 kg butter —/100 kg butter	— — — — 260,0/100 kg pure concentrated butter 180,0/100 kg pure concentrated butter
Commission Regulation (EEC) No 368/77 of 23 February 1977 on the sale by tender of skimmed-milk powder for use in feed for pigs and poultry (OJ No L 52, 24. 2. 1977, p. 19)	80	20. 7. 1987	—	26,0/100 kg	—	165,0/100 kg
Commission Regulation (EEC) No 2409/86 of 30 July 1986 on the sale of intervention butter intended for incorporation in compound feedingstuffs (OJ No L 208, 31. 7. 1986, p. 29)	12	20. 7. 1987	Butter with a fat content of less than 82 %: (a) denaturing (b) non-denaturing Butter with a fat content of 82 % or more: (a) denaturing (b) non denaturing	7,25/100 kg butter 7,00/100 kg butter —/100 kg butter 7,00/100 kg butter	— — — —	310,0/100 kg butter 310,0/100 kg butter —/100 kg butter 310,0/100 kg butter

(ECU)

Standing invitation to tender	Tender No	Date of Commission Decision	Use to which the butter or the concentrated butter is to be put (Article 4 of Regulation (EEC) No 262/79)	Maximum buying-in price	Maximum aid level	Processing security
Commission Regulation (EEC) No 1589/87 of 5 June 1987 on the sale by tender of butter to intervention agencies (OJ No L 146, 6. 6. 87, p. 27)	1	17.7.1987	Butter with a fat content of less than 82 %:	—	—	—
			— Spain	—	—	—
			— Ireland	293,34/100 kg	—	—
			— Belgium, Denmark, Germany, Greece, France, Italy, Luxembourg, Netherlands, United Kingdom	288,75/100 kg	—	—
			Butter with a fat content of 82 % or more:	—	—	—
			— Spain	—	—	—
— Ireland	—	—	—			
— Belgium, Denmark, Germany, Greece, France, Italy, Luxembourg, Netherlands, United Kingdom	295,97/100 kg	—	—			

COURT OF JUSTICE

JUDGMENT OF THE COURT

(Sixth Chamber)

of 30 June 1987

in Case 47/86 (reference for a preliminary ruling made by the Tribunal Administratif, Lille): *Roquette Frères SA v. Office National Interprofessionnel des Céréales (ONIC)* ⁽¹⁾

(*Cereals — Production refunds — Security*)

(87/C 200/03)

(*Language of the case: French*)

(*Provisional translation; the definitive translation will be published in the Reports of Cases before the Court*)

In Case 47/86: reference to the Court under Article 177 of the EEC Treaty by the Tribunal Administratif [Administrative Court], Lille, for a preliminary ruling in the proceedings pending before that court between *Roquette Frères SA*, a company incorporated under French law and whose registered office is in Lestrem (Pas-de-Calais), and *Office National Interprofessionnel des Céréales (ONIC)* [National Cereals Trades Board] — on the interpretation and validity of Commission Regulation (EEC) No 1570/78 of 4 July 1978 laying down detailed rules for the application of Regulation (EEC) No 2742/75 as regards production refunds on starches and repealing Regulation (EEC) No 2026/75 (Official Journal No L 185, 1978, p. 22) — the Court (Sixth Chamber), composed of C. Kakouris, President of the Chamber, T. Koopmans, O. Due, K. Bahlmann and G. C. Rodríguez Iglesias, Judges; C. O. Lenz, Advocate-General; H. A. Rühl, Principal Administrator, for the Registrar, gave a judgment on 30 June 1987, the operative part of which is as follows:

1. *Commission Regulation (EEC) No 1570/78 of 4 July 1978 laying down detailed rules for the application of Council Regulation (EEC) No 2742/75 as regards production refunds on starches has not infringed the provisions of Article 8 of the aforementioned Regulation by providing for the granting of advances together with the lodging of a security as the only method of payment of production refunds.*
2. *The second subparagraph of Article 3 (3) (a) of Commission Regulation (EEC) No 1570/78 is invalid in so far as it fails to provide for the release of the part of the security corresponding to the increase of 5 % in proportion to the quantity of the basic product actually processed.*

⁽¹⁾ OJ No C 80, 9. 4. 1986.

JUDGMENT OF THE COURT

(Third Chamber)

of 2 July 1987

in Case 94/86 (reference for a preliminary ruling made by the Bundesfinanzhof): *Maizena Gesellschaft mbH and Others v. Hauptzollamt Hamburg-Jonas* ⁽¹⁾

(*Grain — Calculation of an export refund on sorbitol when the rate of refund has been fixed in advance — Deduction of the production refund granted for the basic product*)

(87/C 200/04)

(*Language of the case: German*)

(*Provisional translation; the definitive translation will be published in the Reports of Cases before the Court*)

In Case 94/86: reference to the Court under Article 177 of the EEC Treaty by the Bundesfinanzhof [Federal Finance Court] for a preliminary ruling in the proceedings pending before that court between *Maizena Gesellschaft mbH*, 218 Spaldingstraße, Hamburg, *Maizena Industrie Produkte GmbH*, 191 Düsseldorf Straße, Krefeld, *Maizena Markenartikel GmbH*, 1 Knorrstraße, Heilbronn, *Maizena Diät GmbH*, 2 Knorrstraße, Heilbronn, *C. H. Knorr GmbH*, 2 Knorrstraße, Heilbronn, *C. F. Hildebrandt GmbH*, 110 Grüner Deich, Hamburg, *Chemurgie GmbH* (in liquidation), 218 Spaldingstraße, Hamburg, and *Chemurgie GmbH*, 1 Knorrstraße, Heilbronn, represented by *Maizena Gesellschaft mbH*, 218 Spaldingstraße, Hamburg, and *Hauptzollamt* [Principal Customs Office] *Hamburg-Jonas* — on the interpretation of Commission Regulation (EEC) No 1681/80 of 27 June 1980 fixing the rates of the refunds applicable from 1 July 1980 to certain cereal and rice products exported in the form of goods not covered by Annex II to the Treaty (Official Journal No L 166, 1980, p. 41) — the Court (Third Chamber), composed of Y. Galmot, (President of the Chamber), U. Everling and J. C. Moitinho de Almeida, Judges; C. O. Lenz, Advocate-General; H. A. Rühl, Principal Administrator, acting as Registrar, gave a judgment on 2 July 1987, the operative part of which is as follows:

To calculate the rate of export refund on sorbitol classified under subheadings 29.04 C and 38.18 T of the Common Customs Tariff and manufactured in the customs area between August and September of 1980 from maize classified under tariff subheading 10.05 B and then exported to non-member countries, the rate of production refund applicable in the month of exportation had to be taken into account, even if the rate of export refund had been fixed in advance at the rate applicable on 30 July 1980.

⁽¹⁾ OJ No C 125, 24. 5. 1986.

JUDGMENT OF THE COURT

of 7 July 1987

in Case 420/85: Commission of the European Communities v. Italian Republic ⁽¹⁾*(Implementation of a directive — Combined road and rail transport of goods)*

(87/C 200/05)

*(Language of the case: Italian)**(Provisional translation; the definitive translation will be published in the Reports of Cases before the Court)*

In Case 420/85: Commission of the European Communities (Agent: G. Marengo) v. Italian Republic (Agent: L. Ferrari Bravo, assisted by O. Fiumara, Avvocato dello Stato) — application for a declaration that the Italian Republic has failed to fulfil its obligations under the EEC Treaty primarily by failing to implement Council Directive 82/603/EEC of 28 July 1982 amending Directive 75/130/EEC on the establishment of common rules for certain types of combined road/rail carriage of goods between Member States (Official Journal No L 247, 1982 p. 6) and alternatively by failing to inform the Commission of the measures adopted to comply with the said directive — the Court, composed of Lord Mackenzie Stuart, President, F. A. Schockweiler (President of Chamber), G. Bosco, O. Due, K. Bahlmann, R. Joliet and G. C. Rodríguez Iglesias, Judges; M. Darmon, Advocate-General; P. Heim, Registrar, gave a judgment on 7 July 1987, the operative part of which is as follows:

1. *By failing to provide, within the period prescribed by Council Directive 82/603/EEC of 28 July 1982 amending Directive 75/130/EEC on the establishment of common rules for certain types of combined road/rail carriage of goods between Member States, for the reduction or reimbursement of taxes imposed in respect of tractor units used in combined road and rail transport where not only the trailer but also the tractor unit itself is loaded onto the train, the Italian Republic has failed to fulfil its obligations under the EEC Treaty.*

2. *The Italian Republic is ordered to pay the costs.*

⁽¹⁾ OJ No C 359, 31. 12. 1985.

ORDER

of the President of the Second Chamber

of 3 June 1987

in Case 161/87 R: Gert Muysers and Walter Tülp v. Court of Auditors of the European Communities ⁽¹⁾*(Officials — Suspension of the operation of a procedure)*

(87/C 200/06)

*(Language of the case: German)**(Provisional translation; the definitive translation will be published in the Reports of Cases before the Court)*

In Case 161/87 R: Gert Muysers and Walter Tülp, officials of the Court of Auditors of the European Communities, represented by Victor Biel, of the Luxembourg Bar, 18a rue des Glacis, against Court of Auditors of the European Communities (Agent M. Becker) for a suspension of the operation of the procedure relating to Competition No CC/A/8/85 — the President of the Second Chamber of the Court of Justice of the European Communities made an order on 3 June 1987, the operative part of which is as follows:

1. *The application for interim measures is dismissed.*
2. *Costs are reserved.*

⁽¹⁾ See page 5 of this Official Journal.

Action brought on 1 June 1987 by Gert Muysers and Walter Tülp against the Court of Auditors of the European Communities

(Case 161/87)

(87/C 200/07)

An action against the Court of Auditors of the European Communities was brought before the Court of Justice of the European Communities on 1 June 1987 by Gert Muysers and Walter Tülp, represented by Victor Biel, of the Luxembourg Bar, with an address for service in Luxembourg at his Chambers, 18a rue des Glacis, L-1628 Luxembourg.

The applicant claims that the Court should:

1. Declare the application admissible;
2. In addition, declare the application well founded;
3. Consequently, annul the rejection of the applicants' candidatures;
4. Order the Court of Auditors to pay the costs.

Contentions and main arguments adduced in support:

The application is directed against the refusal to allow the applicants to take part in Open Competition No CC/A/8/85. That competition, to which they were refused admission, in common with all other candidates, by the

Selection Board, has now been resumed, but only with the four candidates who were successful in Cases 321 (¹), 322 (²), 323 (³) and 417/85 (³). The applicants contend that the Court of Auditors has infringed Article 176 of the EEC Treaty, the principle of *bona fides*, the principle of the legality of administrative acts and the duty to have regard to the welfare of employees and that it has failed to act in the interests of the service. They contend that they were in the same position as the applicants in the aforementioned cases and that one of the reasons why they refrained from bringing a similar action was that it appeared from the information given by the appointing authority that the procedure would be held in abeyance and would be resumed at a subsequent date if the applications to the Court were successful. They had never been informed that their candidatures had been rejected and a list of suitable candidates stating 'none' had never been published. In Joined Cases 322/85 and 323/85 the Court of Justice had given to understand that the procedure had to be resumed in its entirety. The only reason for the defendant's present conduct appears to be its fear of further actions by the candidates who were successful in the aforementioned cases.

(¹) OJ No C 294, 20. 11. 1986, p. 4.

(²) OJ No C 294, 20. 11. 1986, p. 5.

(³) OJ No C 53, 28. 2. 1987, p. 6.

Action brought on 5 June 1987 by the Commission of the European Communities against the French Republic

(Case 169/87)

(87/C 200/08)

An action against the French Republic was brought before the Court of Justice of the European Communities on 5 June 1987 by the Commission of the European Communities, represented by Henri Etienne, Legal Adviser, and by Daniel Calleja, a member of its Legal Department, acting as Agents, with an address for service in Luxembourg at the offices of Georgios Kremis, Jean Monnet Building, Kirchberg.

The applicant claims that the Court should:

1. (a) Declare that, by not fixing the retail price of manufactured tobacco at the level set by manufacturers or importers, subject only to the application of general legislation intended to curb the rise in prices, the French Republic has failed to fulfil its obligations under Article 5 (1) of Council Directive 72/464/EEC and Article 30 of the EEC Treaty;
- (b) Declare that, by not implementing the measures necessary in order to comply with the judgment of the Court of Justice of 21 June 1983, the French Republic has also failed to fulfil its obligations under Article 171 of the EEC Treaty;

2. Order the defendant to pay the costs.

Contentions and main arguments adduced in support:

Infringement of Article 5 of Directive 72/464/EEC

That Article provides that manufacturers and importers must be free to determine the retail price of manufactured tobacco. The only restriction on that freedom to determine prices is the right of the Member States to apply national price control provisions.

It has been established that producers or importers of manufactured tobacco in France have not been able freely to determine their maximum retail prices and that the French public authorities relied on existing distribution or price quotation mechanisms in refusing to authorize the prices determined by producers or importers.

The Commission does not accept that the obstacles put in the way of producers' or importers' price declarations were justified by a general price control policy. As such the continuance of price controls for tobacco products is no longer justified as the application of a general policy when price controls were abolished in a general fashion by Order No 86-1243 of 1 December 1986 on the freedom of prices and competition.

Infringement of Article 30 of the EEC Treaty

The Commission takes the view that the French system disadvantages the sale of imported products because it only takes account of the situation in the French market and does not enable manufacturers in other Member States to pass on the rise in production costs to delivery prices in France. It is therefore incompatible with Article 30 of the EEC Treaty. The Commission adds that the way in which the system of price restrictions in question disadvantages the sale of imported products is particularly serious because the losses of the sole French manufacturer (SEITA) which are considerable, are automatically borne by the budget of the French State.

Failure to comply with Article 171 of the EEC Treaty

It has been established that even after the Court's judgment of 21 June 1986 the French authorities fixed retail prices at a level different from those of producers or importers.

It is true that the notice published on 24 January 1985 constituted a legal instrument enabling the authorities responsible for implementing the judgment to comply with the provisions of the Treaty as interpreted by the Court.

However, that notice did not prevent the prices declared by foreign manufacturers or importers from being made subject in fact to price control measures which did not have the general character required by Article 5 of the Directive, nor did it prevent the delivery of manufactured tobacco on the French market from being made more difficult for importers or foreign manufacturers. As the Court has recently stressed, what is essential is that failures to comply with Community law should also be put to an end in fact.

Action brought on 10 June 1987 by Richard Hamill against Commission of the European Communities

(Case 180/87)

(87/C 200/09)

An action against the Commission of the European Communities was brought before the Court of Justice of the European Communities on 10 June 1987 by Richard Hamill, residing in Brussels, represented by Edmond Lebrun, of the Brussels Bar, with an address for service in Luxembourg at the Chambers of Tony Bieber, 83 Boulevard Grande-Duchesse Charlotte.

The applicant claims that the Court should

1. Declare the application admissible and well-founded;
2. Consequently,
 - 2.1. Order the Commission to pay him the sum of Bfr 5 000 000 (five million Belgian francs), subject to amendment in the course of the action, by way of damages, together with interest of 8 % per annum from 3 June 1986 until the date of payment;
 - 2.2. Annul the decision rejecting the complaint submitted on 11 November 1986;
 - 2.3. Order the Commission to pay the costs.

Contentions and main arguments adduced in support:

The Commission is liable for its wrongful conduct in connection with the criminal proceedings brought against the applicant (Article 215, second paragraph of the EEC Treaty).

The applicant also complains that the Commission failed in various respects to fulfil its duty to assist officials after he was arrested in Great Britain (Article 24 of the Staff Regulations of Officials).

The applicant, who was acquitted by judgment of 14 February 1986, claims that there is a causal link between the faults attributed to the defendant's services and the material and non-material damage which he suffered.

He considers that the Commission should be ordered to pay compensation in respect of the damage caused, together with interest.

Action brought on 24 June 1987 by Jean-Pierre Kerzmann against the Court of Auditors of the European Communities

(Case 198/87)

(87/C 200/10)

An action against the Court of Auditors of the European Communities was brought before the Court of Justice of the European Communities on 24 June 1987 by Jean-Pierre Kerzmann, residing in Luxembourg, represented by Victor Biel of the Luxembourg Bar, with an address for service in Luxembourg at the latter's Chambers, 18a rue des Glacis.

The applicant claims that the Court should

- (a) Declare the application admissible,
- (b) Further declare it well-founded and, consequently,
- (c) Annul Vacancy Notice CA/A/13/86,
- (d) Annul the appointment of Edouard Ruppert to the post of head of division,
- (e) Order the Court of Auditors to pay the costs.

Contentions and main arguments adduced in support:

Infringement of Article 7 (1) of the Staff Regulations, in so far as the contested measures were not adopted exclusively in the interests of the service.

Misuse of powers in so far as the appointing authority used its powers to promote an individual interest rather than the general interest.

Unequal treatment and discrimination.

Breach of the principle of '*Patere legem quam ipse fecisti*'.

Failure to observe the conditions laid down in the vacancy notice, in particular as regards the appraisal of experience acquired in a responsible position 'in areas connected with the nature of the duties'. The promoted candidate does not satisfy the conditions laid down in the vacancy notice.

Breach of the rules of sound administration.



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