

not state any reasons which would enable the applicant to understand the grounds for the refusal.

The applicant maintains that the decision in question infringes the applicable rules since, first, the Portuguese state was not asked to submit observations, contrary to the provisions of Article 6 of Council Regulation (EEC) No 2950/83 and, secondly, the applicant had scrupulously complied with all the administrative requirements laid down in both the Regulation and Council Decision 83/516/EEC.

The applicant claims that its acquired rights, as well as the principles of the protection of legitimate expectations, legal certainty and proportionality, had been breached by virtue of the fact that the Commission, when it adopted the decision in question, reduced by half the contribution initially approved by the European Social Fund.

Action brought on 1 March 1994 by Michael Becker against the Court of Auditors of the European Communities

(Case T-93/94)

(94/C 120/48)

(Language of the case: German)

An action against the Commission of the European Communities was brought before the Court of First Instance of the European Communities on 1 March 1994 by Michael Becker, represented by Roy Nathan, Rechtsanwalt, with an address for service in Luxembourg at his Chambers at 18 Rue de Glacis.

The applicant claims that the Court should:

- order the Court of Auditors to revoke the notice of 2 December 1993 and to re-classify the applicant in the grade in application of Article 32, as amended by Council Regulation (EEC, Euratom, ECSC) No 3947/92 of 21 December 1992;
- order the Court of Auditors to pay the entire costs.

Pleas in law and main arguments adduced in support:

On 1 September 1981 the applicant entered the defendant's employment as a member of the temporary staff in Grade A4. He was classified as from 17 October 1983 as a member of the temporary staff in Grade A7, Step 3. Following a competition he was appointed an official on 18 October 1984. As from that date he was again classified in Grade A7, Step 3.

His request, after the amendment of Article 32 of the Staff Regulations by Regulation No 3947/92 of 21 December 1992, for a review of his classification in the step was

rejected by letter dated 2 June 1993; on 2 December 1993 the complaint which he submitted against it was likewise rejected. The applicant challenges that rejection with his action.

The applicant alleges infringement of the principle of equality pursuant to Article 5 (3) of the Staff Regulations. In the Court of Auditors there is unequal treatment of officials who were classified in step after the application of the new version of Article 32. As a result of his new classification on appointment as an official he finds himself, in spite of his 18 years experience in Category A, only in Step 3. In contrast to the Court of Auditors the appointing authorities of the Court of Justice and Commission in fulfilment of their duty to have regard to the welfare of their staff have drawn the right conclusion from the new version of Article 32 that the steps of all officials affected should be reviewed as a matter of course and improved. The defendant's administrative practice is contrary to the view that classification in step may be undertaken only once, namely on the official's recruitment.

The applicant furthermore alleges disregard of the duty to have regard for the welfare of staff. The defendant did not sufficiently take account of the applicant's interests in its decision and did not weigh the interests as required.

Action brought on 9 March 1994 by Dimitrios Coussios against the Commission of the European Communities

(Case T-97/94)

(94/C 120/49)

(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 9 March 1994 by Dimitrios Coussios, residing in Brussels, represented by Georges A. Sakellaropoulos, of the Athens bar, with an address for service in Luxembourg at the Chambers of Aloyse May, 31 Grand-Rue.

The applicant claims that the Court should:

- declare void and of no effect the Commission's implicit rejection of the applicant's complaint of 11 August 1993,
- declare void and of no effect the staff report drawn up by the appointing authority for the period from 1 July 1989 to 30 June 1991,
- order the Commission to draw up a new staff report for that period,
- order the Commission to pay the applicant the equivalent of three years' salary by way of damages for

the material and non-material damage caused to the applicant, and still being caused to him, by the disputed staff report,

- take formal notice that the applicant reserves the right, at a later date, to claim from the Commission all such damages as may be legally due under Article 24 (2) of the Staff Regulations,
- order the Commission to pay all the costs.

Pleas in law and main arguments adduced in support:

The applicant challenges a number of assessments made in his staff report for the period in question, concerning alleged difficulties with colleagues and certain outside organizations.

In his opinion, the disputed staff report is in breach of Article 43 of the Staff Regulations, in that it should have been drawn up and notified to him before the 30 November next following the end of the reference period, whereas in fact the first assessor did not draw it up until 22 May 1992.

Concerning the assessments themselves, the applicant claims that the Commission has disregarded Articles 25 and 26 of the Staff Regulations and made a manifest error of assessment.

Action brought on 10 March 1994 by the Asociación España de Empresas de la Carne (ASOCARNE) against the Council of the European Union

(Case T-99/94)

(94/C 120/50)

(Language of the case: Spanish)

An action against the Council of the European Union was brought before the Court of First Instance of the European Communities on 10 March 1994 by the Asociación Española de Empresas de la Carne (ASOCARNE), represented by Paloma Llaneza González, of the Madrid Bar, with an address for service in Luxembourg at the Chambers of Mr Loesch, of Loesch and Wolter, 11 Rue Goethe.

The applicant claims that the Court should:

- annul Council Directive 93/118/EEC of 22 December 1993 amending Directive 85/73/EEC on the financing of health inspections and controls of fresh meat and poultrymeat ⁽¹⁾,
- order the Council of the European Union to pay the costs.

Pleas in law and main arguments adduced in support:

The applicant challenges the lawfulness of Directive 92/118/EEC in so far as, on the basis of Directives 85/73/EEC and 88/409/EEC and Decision 88/408/EEC, it

refers to the collection of a fee by the Member States when bovine animals, swine and goats, *inter alia* are slaughtered. Pursuant to Directive 85/73/EEC, the amount of that fee should correspond to the actual cost of the service. Nevertheless, Directives 88/409/EEC and 93/118/EEC have framed the aforementioned fee as a standard rate tax.

As regards its own locus standi, the applicant considers that the contested legislation should be considered a decision since the express derogation laid down in Decision 88/408/EEC from 1 January 1994 and its replacement by the Annex to Directive 93/118/EEC, which entered into force before the rest of the directive in order to have it coincide with that derogation, clearly indicate that that Annex is essentially nothing other than a decision.

As regards the substance of the dispute, the applicant claims that, apart from infringing the Spanish Constitution and tax system, the fee in the present case has no legal basis in the fundamental legislation since, although Article 43 of the EEC Treaty lays down the foundations for a common agricultural policy, Article 99 does not confer on the Community sufficient tax-raising powers to determine the amount and nature of a fee intended to constitute the sole means of financing certain services in the field of agriculture.

Moreover, in the opinion of the applicant, the measure adopted by the Council is vitiated by a manifest error of assessment inasmuch as it is not based on a sufficiently detailed analysis of the production costs in the various Member States and of the structure of its veterinary services.

⁽¹⁾ OJ No L 340, 31. 12. 1993, p. 15.

Action brought on 10 March 1994 by A. J. Dubbelhuis and two Others against the Council of the European Union and the Commission of the European Communities

(Case T-101/94)

(94/C 120/51)

(Language of the case: Dutch)

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 10 March 1994 by A. J. Dubbelhuis, Aalden (Netherlands), and two Others, represented by H. J. Bronkhorst, Advocaat bij de Hoge Raad der Nederlanden, and E. H. Pijnacker Hordijk, of the Amsterdam Bar, with an address for service in Luxembourg at the Chambers of L. Frieden, 62 Avenue Guillaume.

The applicants claim that the Court should:

- order the Community to pay the applicants a certain sum together with interest at 8% a year on the principal sum as from 19 May 1992 until the date of full settlement,