

Case T-151/03

Nuova Agricast Srl

v

Commission of the European Communities

(Action for annulment — Access to documents — Regulation (EC) No 1049/2001 —
Application devoid of purpose)

Order of the Court of First Instance (Fifth Chamber), 8 June 2005 II - 1969

Summary of the order

Actions for annulment — Action against a decision of the Commission refusing access to a document originating from a Member State — Document annexed to the application but purportedly not passed to the applicant by his lawyer — Action devoid of purpose having regard to the concept of representation in court proceedings — Irrelevance of national rules of professional ethics

(Art. 230 EC; European Parliament and Council Regulation No 1049/2001)

An action brought by an applicant for annulment of a decision of the Commission refusing that applicant access to a document originating from a Member State is devoid of purpose where the document concerned is one of the annexes to the application.

Representation in court proceedings, which is obligatory in the case of the Court of First Instance, consists in one person acting in such proceedings in the name and on behalf of another person, with the legal effects of the proceedings being exclusively to the benefit of the latter, or exclusively to be borne by the latter. The representative, in this case the lawyer, is no more than an intermediary for the person represented, who alone — so far as the Court is concerned — is party to the proceedings.

The Court of First Instance cannot take cognisance of statements made by the applicant's lawyer to the effect that, pursuant to his ethical obligations, that lawyer has produced — in his personal capacity and unbeknownst to the applicant — the document to which access is requested on the basis of Regulation No 1049/2001 regarding public access to European Parliament, Council and Commission documents.

Moreover, it is not for the Court to consider whether that lawyer has complied with the national rules of professional ethics by which he is bound.

(see paras 26, 28-32, 34)