

Case T-304/01

Julia Abad Pérez and Others

v

**Council of the European Union and
Commission of the European Communities**

(Common agricultural policy — Animal health — Bovine spongiform encephalopathy — Legislation relating to protection of animal health and public health — Action for damages — Non-contractual liability — Causal link — Formal defects — Association of traders — Inadmissibility)

Judgment of the Court of First Instance (First Chamber), 13 December 2006 II - 4861

Summary of the Judgment

- 1. Actions for damages — Interest in bringing proceedings — Legal persons (Art. 288 EC)*
- 2. Procedure — Application initiating proceedings — Formal requirements (Statute of the Court of Justice, Art. 21; Rules of Procedure of the Court of First Instance, Art. 44(1)(c))*

3. *Actions for damages — Interest in bringing proceedings — Trade association*
(Art. 288 EC)
4. *Non-contractual liability — Conditions*
(Art. 288, second para., EC)
5. *Non-contractual liability — Conditions*
(Art. 288, second para., EC)

1. In an action for damages pursuant to Article 235 EC and the second paragraph of Article 288 EC, a legal person's interest in bringing proceedings depends less on the provisions of its constitutive instruments relating to its object than on the actual activities of the entity in question and, more specifically, on the alleged loss suffered by it because of those activities.

itself, even if only stated briefly, provided the statement is coherent and comprehensible. In order to satisfy those requirements, an application seeking compensation for damage caused by a Community institution must state the evidence from which the conduct alleged against the institution can be identified, the reasons for which the applicant considers that there is a causal link between the conduct and the damage it claims to have suffered, and the nature and extent of that damage.

(see para. 39)

(see para. 44)

2. Pursuant to Article 21 of the Statute of the Court of Justice and Article 44(1)(c) of the Rules of Procedure of the Court of First Instance, an application must indicate the subject-matter of the proceedings and include a brief statement of the grounds relied on. In order to ensure legal certainty and the sound administration of justice, if an action is to be admissible the essential points of fact and law on which it is based must be apparent from the text of the application
3. A trade association has the right to bring proceedings for damages under Article 288 EC only where it is able to assert in law either a particular interest of its own

which is distinct from that of its members or a right to compensation which has been assigned to it by others.

the institutions are accused, the reality of the damage and the existence of a causal connection between the conduct and the damage in question.

No interest in bringing proceedings is held by two agricultural trade associations which, first, do not plead any assignment of rights or any express mandate authorising them to bring proceedings for compensation of losses suffered by their members and, second, state that they are not seeking pecuniary damages, but that the loss suffered by them consists of the sum of all the losses suffered by their members and by the non-pecuniary damage suffered by those associations themselves, such alleged non-pecuniary damage not being supported in any way.

As regards the first of those conditions, the case-law requires that there must be established a sufficiently serious breach of a rule of law intended to confer rights on individuals. As regards the requirement that the breach must be sufficiently serious, the decisive test for finding that it is satisfied is whether the Community institution concerned has manifestly and gravely disregarded the limits on its discretion. Where that institution has only a considerably reduced or even no discretion, the mere infringement of Community law may be sufficient to establish the existence of a sufficiently serious breach.

(see paras 52-54)

If any one of those conditions is not satisfied, the action must be dismissed in its entirety and it is unnecessary to consider the other conditions.

4. The non-contractual liability of the Community for unlawful conduct on the part of its organs, within the meaning of the second paragraph of Article 288 EC, depends on the satisfaction of a number of requirements, namely: the unlawfulness of the conduct of which

(see paras 97-99)

5. There is a causal link for the purposes of the second paragraph of Article 288 EC where there is a certain, direct causal nexus between the fault committed by the institution concerned and the injury pleaded, the burden of proof of which rests on the applicants.

Where the illegalities alleged consist of alleged omissions of the Community institutions in their duty to act, those omissions may be regarded as a direct and certain cause of the damage claimed only if it is demonstrated that, if those

institutions had adopted the measures which the applicant blames them for not taking, that damage would probably not have occurred. Acts and omissions by national authorities and private operators may, moreover, prevent a finding of a direct causal link between the alleged unlawful omissions by the Community institutions and the damage claimed.

(see paras 101, 102, 108, 109,
131, 137, 152, 156)