

Case T-178/98 DEP

Fresh Marine Co. A/S

v

Commission of the European Communities

(Taxation of costs)

Order of the Court of First Instance (Third Chamber), 15 September 2004 . . II - 3130

Summary of the Order

1. *Procedure — Costs — Taxation — Recoverable costs — Definition — Expenses necessarily incurred by the parties — Elements to be taken into consideration*
(*Rules of Procedure of the Court of First Instance, Art. 91(b)*)

2. *Procedure — Costs — Taxation — Recoverable costs — Definition — Several lawyers involved*
(*Rules of Procedure of the Court of First Instance, Art. 91(b)*)

3. *Procedure — Costs — Taxation — Claim for certain costs submitted for the first time before the court — Admissibility*
(*Rules of Procedure of the Court of First Instance, Art. 92(1)*)

1. Under Article 91(b) of the Rules of Procedure of the Court of First Instance, recoverable costs are limited, first, to those necessarily incurred for the purpose of the proceedings before the Court of First Instance and, second, to those which were necessary for that purpose, which are conditions which apply to all costs, including travel and accommodation expenses.

The Community judicature is not empowered to tax the fees payable by the parties to their own lawyers but it may determine the amount of those fees which may be recovered from the party ordered to pay the costs. In ruling on the application for taxation of costs the Court is not obliged to take account of any national scales of lawyers' fees or any agreement in relation to fees concluded between the party concerned and his agents or advisers.

In the absence of Community provisions laying down fee scales, the Court must make an unfettered assessment of the facts of the case, taking into account the purpose and nature of the proceedings, their significance from the point of view of Community law, as well as the difficulties presented by the case, which may consist of a lack of case-law dealing with similar circumstances, thereby leading to greater uncertainty as to the outcome of the case, the amount of work, in particular in terms of research and analyses, generated by the case for the agents or advisers involved and the financial interest which the parties had in the proceedings. The ability of the Community judicature to assess the value of the work carried out is dependent on the accuracy of the information provided.

(see paras 26-28, 33, 41)

2. Regarding the amount of work which the main proceedings may have generated for the applicant's lawyers, although in principle only payment of the fees of a single lawyer is recoverable, it may be that, depending on the specific circumstances of each case, most notably its complexity, payment of the fees of more than one lawyer may be found to be necessarily incurred. The primary con-

sideration is none the less the total number of hours of work which may appear to be objectively necessary for the purpose of the proceedings before the Court, irrespective of the number of lawyers who may have provided the services in question.

of the Rules of Procedure of the Court of First Instance, be expanded, during the proceedings for taxation of costs, so as to include travel and accommodation costs, if there was disagreement between the parties as to the recoverable costs at the time when that claim was brought. Accordingly, such a claim for travel and accommodation costs is admissible.

(see para. 35)

3. A claim initially dealing only with lawyers' fees may, under Article 92(1)

(see para. 40)