

## Case T-93/95

**Bernard Laga**

**v**

**Commission of the European Communities**

(Action for annulment — Compensation payable to milk producers — Regulation (EEC) No 2187/93 — Offer of compensation — Acts of national authorities — Review — Competence — Action for damages — Admissibility)

Judgment of the Court of First Instance (First Chamber), 4 February 1998 ..... II - 197

### Summary of the Judgment

1. *Actions for annulment — Jurisdiction of the Community judicature — Examination of the legality of an act adopted by national authorities containing findings of fact which are contested — Excluded*  
(EC Treaty, Art. 173, fourth para.; Council Regulation No 2187/93)
2. *Actions for damages — Subject-matter — Application for compensation brought against the Community pursuant to the second paragraph of Article 215 of the Treaty — Jurisdiction of the Community judicature — Application for compensation for damage caused by the national authorities — Jurisdiction of the national courts*  
(EC Treaty, Art. 178 and Art. 215, second para.)

3. *Actions for damages — Independent of actions for annulment — Action seeking withdrawal of an individual decision which has become definitive — Inadmissible*  
(EC Treaty, Arts 173 and 178)

1. Where, in proceedings for annulment brought under the fourth paragraph of Article 173 of the Treaty, the applicant contests a refusal by national authorities to make him an offer of compensation pursuant to Regulation No 2187/93 providing for an offer of compensation to certain producers of milk and milk products temporarily prevented from carrying on their trade, asserting that the contested act results from an error of fact committed in an inspection carried out on his holding by those authorities, the claim for annulment is in substance directed against the findings made during that inspection. It therefore seeks to call in question the validity of a decision taken by the national bodies responsible for implementing certain measures within the framework of the common agricultural policy. Such acts are subject to review by the national courts, and the Court of First Instance does not, therefore, have jurisdiction to review their legality.

2. The combined provisions of Article 178 and of the second paragraph of Article 215 of the Treaty confer jurisdiction on the Community judicature to award compensation only for damage caused by the Community institutions or by their servants in the performance of their duties. Thus, damage caused by national authori-

ties cannot give rise to liability on the part of the Community and falls solely within the jurisdiction of the national courts, which will order compensation for such damage where appropriate.

Consequently, the conditions which must be satisfied for the matter to be brought before the Court of First Instance under those provisions are not fulfilled where the event giving rise to the loss for which the applicant claims reparation is an act adopted by the national authorities in the exercise of their own powers.

3. Even though an application for annulment and a claim for damages, as respectively provided for by Articles 173 and 178 of the Treaty, constitute two independent forms of action, and although the inadmissibility of an application for annulment does not in principle render inadmissible a claim for damages for the injury allegedly caused by the contested act, the fact that a claim for annulment is held to be inadmissible renders the claim for damages inadmissible where the action for damages is in fact aimed at securing the withdrawal of an individual decision and would, if upheld, have the effect of nullifying the legal effects of that decision.