

## Case T-134/89

**Erich Hettrich and Others**

v

**Commission of the European Communities**

(Official — Specific weighting for Munich —  
Inadmissibility — Amendment of the conclusions  
in the application — Lack of jurisdiction)

Judgment of the Court of First Instance (Third Chamber), 17 October 1990 ..... 566

### Summary of the Judgment

1. *Officials — Actions — Subject-matter — Determined by the application within the limits laid down by the complaint*  
(*Staff Regulations, Arts 90 and 91*)
2. *Procedure — Application — Conclusions — Amendment — Application for annulment first made in the reply — Inadmissible*  
(*Statute of the Court of Justice of the European Communities, Art. 19; Rules of Procedure, Art. 38*)
3. *Officials — Actions — Subject-matter — Instruction to the Commission to exercise the powers conferred upon it by the Treaty — Inadmissible*  
(*Staff Regulations, Art. 91*)

1. Although the administrative complaint provided for in Article 90(2) of the Staff Regulations is an essential prerequisite for bringing an action against an act adversely affecting a person covered by the Staff Regulations, it is a separate step from the action provided for in Article

91(2) of the Staff Regulations and determines the purpose and subject-matter of that action to a negative extent only, in the sense that it precludes an extension, but not a curtailment, of the purpose or subject-matter of the complaint in the action. The subject-

- matter of an action, therefore, is defined solely by the application, provided that it remains within the limits laid down by the complaint. It follows that the substance of the complaint cannot be subsumed into the application other than by unambiguous reference.
2. An application for annulment which does not appear, even implicitly, in the application, but was first submitted in the reply, constitutes an amendment of the conclusions in the application and is therefore inadmissible under Article 19 of the Statute of the Court of Justice and Article 38 of the Rules of Procedure.
3. The Court has no jurisdiction to entertain an action in which the conclusions do not seek to contest the legality of an act of the appointing authority adversely affecting them, but to have the Commission ordered to use the powers which it possesses as an institution under, on the one hand, Article 155 of the Treaty and Article 64 of the Staff Regulations, and, on the other hand, Articles 173(1) and 175(1) of the Treaty.

JUDGMENT OF THE COURT OF FIRST INSTANCE (Third Chamber)  
17 October 1990 \*

In Case T-134/89,

**Erich Hettrich**, an official of the Commission of the European Communities,

**Gabrielle Krumm**, an official of the Commission of the European Communities,

**Helmut Steinell**, a member of the temporary staff of the Commission of the European Communities, residing at Munich,

\* Language of the case: German.