

The applicant claims that the Court should:

1. annul the applicant's May 2004 pension statement, so as to apply a correction coefficient at the level of the capital of her country of residence or, at least, a correction coefficient which appropriately reflects the differences in the costs of living in the place where the applicant is deemed to incur her expenditure and therefore complying with the principle of equivalence;
2. order the European Economic and Social Committee to pay all the costs.

*Pleas in law and main arguments*

The pleas in law and arguments relied upon in this case are similar to those invoked in Case T-35/05 *Elisabeth Agne-Dapper and Others v Commission*.

**Action brought on 4 March 2005 by the Italian Republic against the Commission of the European Communities**

(Case T-110/05)

(2005/C 115/56)

*(Language of the case: Italian)*

An action against the Commission of the European Communities was brought before the Court of First Instance of the European Communities on 4 March 2005 by the Italian Republic, represented by Giacomo Aiello, *Avvocato dello Stato*.

The applicant claims that the Court should:

1. annul Commission Regulation (EC) No 2102/2004, insofar as it does not lay down exceptional measures to support the market in poultrymeat within the meaning of Article 14 of Regulation (EEC) No 2777/75 with regard to chicks destroyed owing to the fact that breeding is impossible in areas affected by avian influenza and subject to veterinary restrictions on circulation;
2. order the Commission to pay the costs.

*Pleas in law and main arguments*

The Government of the Italian Republic has challenged before the Court of First Instance of the European Communities Commission Regulation (EC) No 2102/2004 of 9 December 2004 on certain exceptional market support measures for eggs in Italy, <sup>(1)</sup> insofar as it does not lay down exceptional measures to support the market in poultrymeat within the meaning of Article 14 of Regulation (EEC) No 2777/75 <sup>(2)</sup> with regard to chicks destroyed owing to the fact that breeding is impossible in areas affected by avian influenza and subject to veterinary restrictions on circulation.

In support of its claims, the Italian Republic has pleaded:

1. infringement of the principle of non-discrimination between producers within the Community laid down in the second paragraph of Article 34(2) EC since, exceptional market support measures having been granted to Italy only in respect of eggs, similar measures in respect of poultrymeat were refused, resulting in discrimination against Italian bird producers in relation to those in the Netherlands, thus infringing Article 34(2) of the EC Treaty;
2. misuse of powers and manifest error of assessment by the Commission which, by refusing to adopt the exceptional market support measures also in respect of one-day-old chicks destroyed owing to the fact that they cannot breed, exceeded the powers conferred on it by the basic regulation on the common organisation of the market in poultrymeat and committed an error in assessing the situation on the Italian bird market and the data on the production structure at its disposal;
3. infringement and incorrect interpretation of Article 14 of Regulation No 2777/75, since the Commission's unjustified refusal to grant the exceptional market support measures in respect of one-day-old chicks destroyed owing to the fact that breeding is impossible is the result of misinterpretation of Article 14 of Regulation No 2777/75.

Finally, the applicant pleads infringement of the obligation to give reasons for measures.

<sup>(1)</sup> OJ L 365 of 10.12.2004, p. 10.

<sup>(2)</sup> OJ L 282 of 01.11.1975, p. 77.