ORDER OF THE COURT OF FIRST INSTANCE
(Fourth Chamber, Extended Composition)
24 January 1997 *

In Case T-121/95,

European Fertilizer Manufacturers Association (EFMA), an association registered under Swiss law, established at Zurich (Switzerland), represented initially by Dominique Voillemot and Hubert de Broca, subsequently by Dominique Voillemot and Olivier Prost, of the Paris Bar, with an address for service in Luxembourg at the Chambers of Messrs Loesch and Wolter, 11 Rue Goethe,

applicant,

v

Council of the European Union, represented by Yves Crétien and Antonio Tanca, of its Legal Service, acting as Agents, assisted by Hans-Jürgen Rabe and Georg M. Berrisch, of the Hamburg and Brussels Bars, with an address for service in Luxembourg at the office of Bruno Eynard, General Manager of the Legal Affairs Department of the European Investment Bank, 100 Boulevard Konrad Adenauer,

defendant,

* Language of the case: English.

supported by

Commission of the European Communities, represented by Nicholas Khan, of its Legal Service, acting as Agent, with an address for service in Luxembourg at the office of Carlos Gómez de la Cruz, of its Legal Service, Wagner Centre, Kirchberg,

intervener,

APPLICATION for annulment of Article 1 of Council Regulation (EC) No 477/95 of 16 January 1995 amending the definitive anti-dumping measures applying to imports into the Community of urea originating in the former USSR and terminating the anti-dumping measures applying to imports into the Community of urea originating in the former Czechoslovakia (OJ 1995 L 49, p. 1),

THE COURT OF FIRST INSTANCE OF THE EUROPEAN COMMUNITIES (Fourth Chamber, Extended Composition),

composed of: K. Lenaerts, President, P. Lindh, J. Azizi, J. D. Cooke and M. Jaeger, Judges,

Registrar: H. Jung,

makes the following

Order

1 European Fertilizer Manufacturers Association is a trade association registered under Swiss law which represents the common and general interests of its members, who are engaged in the manufacture of fertilizers.

2 By application received at the Court on 12 May 1995, it brought an action for annulment of Council Regulation (EC) No 477/95 of 16 January 1995 amending the definitive anti-dumping measures applying to imports into the Community of urea originating in the former USSR and terminating the anti-dumping measures applying to imports into the Community of urea originating in the former Czechoslovakia (OJ 1995 L 49, p. 1). It chose English as the language of the case.

3 By application received at the Court Registry on 23 October 1995, the Commission requested leave to intervene in support of the form of order sought by the Council.

4 By order of 21 November 1995, the President of the Fourth Chamber, Extended Composition, granted the Commission leave to intervene.

5 The written procedure was closed on 22 March 1996.

Request for leave to derogate from the rules on languages

6 By letter dated 2 October 1996, the applicant requested leave from the Court to plead in French at the hearing on the ground that English is not the mother tongue of its counsel.

7 By letter dated 2 October 1996, the Council stated that the principal parties should continue to use the language of the case also at the hearing.

8 By letter dated 11 October 1996, the Commission stressed, among other things, that cogent reasons must be given where such a request is made by the applicant, who chose the language of the case, and not by an intervener, who has no control over the language of the case. It added that the Community institutions make their choice of agents on the assumption that the same language of the case will be used throughout the proceedings.

Findings of the Court

9 Article 35(2) of the Rules of Procedure provides as follows:

'The language of the case shall be chosen by the applicant, except that:

(a) at the joint request of the parties the Court of First Instance may authorize another of the languages mentioned in paragraph (1) of this Article to be used as the language of the case for all or part of the proceedings;

(b) at the request of one of the parties, and after the opposite party and the Advocate General have been heard, the Court of First Instance may, by way of derogation from subparagraph (a), authorize another of the languages mentioned in paragraph (1) of this Article to be used as the language of the case for all or part of the proceedings; such a request may not be submitted by an institution.'

10 The Court has already held that a request for leave to derogate from the rule on the use of the language of the case made by a party intervening in the proceedings must be accompanied by a detailed and specific statement of reasons (order of 13 May 1993 in Case T-74/92 *Ladbroke Racing* v *Commission* [1993] ECR II-535, paragraph 14). In this case, the request for leave has been made by the applicant. Consequently, the reasons given must, *a fortiori*, be sufficiently cogent to justify a departure from the initial choice made by the applicant itself.

11 The applicant, however, requests leave to plead in French at the hearing on the sole ground that English is not the mother tongue of its counsel, yet has not shown that this factor was unforeseeable when it lodged its application and hence when it made its choice of the language of the case.

12 Consequently, the reason given does not satisfy the requirement for a sufficiently detailed and specific statement of reasons capable of justifying a derogation from the rules on languages.

13 As a result, the application must be dismissed.

On those grounds,

THE COURT OF FIRST INSTANCE
(Fourth Chamber, Extended Composition)

hereby orders:

1. The request for derogation from the rules on languages is dismissed.

2. The costs are reserved.

Luxembourg, 24 January 1997.

H. Jung — Registrar

K. Lenaerts — President