

Qz.04951

MR POWELL

EUROPEAN COMMUNITY: LEGAL ACTION BY THE UNITED KINGDOM
AGAINST THE COMMISSION AND OTHER COMMUNITY INSTITUTIONS

The Prime Minister has been informed recently about a number of individual cases in the European Court of Justice in which there has been a United Kingdom interest. I should also draw your attention to a change in the balance of such cases. The impression is still sometimes given in press comment that the United Kingdom has the sole role of defending its actions in the European Court. This may have been the case in the past. Currently, however, the boot is on the other foot. In the first ten years of our Community membership the United Kingdom took only one case against the Commission in the European Court. More recently, however, we have taken a more robust line, both in order to get money which we consider due to us and to restrict Commission attempts to extend their competence. In the last eighteen months we have initiated nine cases (seven against the Commission, one against the European Parliament and one against the Council).

The United Kingdom's cases against the Commission are

- a challenge to two Commission decisions ruling against payments in the United Kingdom (case 133/84)

- Social Fund: challenge to a Commission decision; need to avoid retroactive application and to give legal certainty (case 84/85)

- Migration: challenge to a Commission decision as being ultra vires (case 287/85)

If the European Court follows the Advocate General, we should gain about £300,000

Question of principle and of United Kingdom receipts

Question of Commission competence and misuse of a Treaty article

/Sheepmeat



- Sheepmeat: challenge to
Commission Regulation
(case 305/85)

Commission has not in
our view respected the
legislative requirements
in calculating money
for United Kingdom
sheep farmers

- Milk pricing: challenge to
Commission decision disallowing
certain expenditure in the
United Kingdom (case 347/85)

A substantial amount
of money could be at
stake

- Fisheries: challenge to
Commission decision disallowing
some expenditure in the
United Kingdom (case 364/85)

- Sheepmeat: challenge to a
Commission regulation applying
clawback (case 23/86)

In addition, we have taken the case against the European Parliament on the 1986 budget (on which we successfully gained interim measures on 17 March) and a case against the Council on the Treaty base for the directive on hormones, which we claim to be insufficient. We are also taking a more robust line on intervening in other cases in order to express our view, for example in the four insurance cases which the Commission has brought against France, the Federal Republic of Germany, Denmark and the Republic of Ireland.

I am sending copies to Colin Budd (FCO) and to Sir Robert Armstrong.

D F WILLIAMSON

26 March 1986