

Case T-184/85 Dorsch Consult [1998]

Facts: Complying with the embargo on trade adopted by the United Nations in response to Iraq's invasion of Kuwait, the Council adopted a Regulation preventing trade by the Community as regards with Iraq and Kuwait. Iraq froze all property and income of those States which had adopted such measures, measure later on repealed. The applicant, a German engineering consultancy, did not receive payment of sums due for services rendered under a contract with the Iraqi authorities. The applicant contested the rejection by the Council of its request for compensation for the damage suffered due to the adoption of the Iraqi Law as a response of the Communities' Regulation.

Held: If the Community is to incur non-contractual liability as the result of a lawful or unlawful act, it is necessary to prove that the alleged damage is real and the existence of a causal link between the act and the alleged damage. However, the refusal by the Iraqi authorities to settle their debts was not proved definitive, as it may be due to a delay of an administrative nature or a temporary refusal to pay and the applicant did not make use of the contractual remedies included in its contract with the Iraqi Ministry. Moreover, the preamble of the Iraqi Law refers that its enactment was justified by the adoption by "certain governments" of "arbitrary decisions" against Iraq, without reference to the European Community, and refusal to pay continued after the Iraqi Law was repealed. In any event, any damage should be attributed to the United Nations embargo, whose Members were required to accept and carry out its decisions. Finally, if Community's liability in respect of a lawful act were to be recognised as part of Community law, such liability could be incurred only if the damage affects a particular circle of economic operators in a disproportionate manner by comparison with others (special damage) and exceeds the limits of the economic risks inherent in operating in the sector concerned (unusual damage), without the legislative measure being justified by a general economic interest. However, the applicant's claims were not the only ones affected but also those of all other Community undertakings, and Iraq was already regarded as a "high-risk country". Moreover, the aims pursued by such rules (maintaining international peace and security) is such as to justify negative consequences, even of a substantial nature, for some operators.