

Article 340 TFEU, which provides a method of compensation for victims of the Commission's errors, is invoked as the basis for actions against Commission decisions under the Merger Control Regulation. Accordingly, the rules of procedure of the Community Courts come into play. This probing analysis asks the important questions: What limits can be imposed on the discretion of the Community Courts acting within their own rules of procedure? Is the manner in which the Court of Justice interprets those rules sufficient? Focusing on the crucial Court responsibilities of investigating facts and assessing economic damage in relation to the type of non-contractual liability apparent in antitrust cases, the author convincingly demonstrates that the scope for case management by the Courts is strictly limited, and may engender information or evidentiary deficits that contravene ECHR Art 6.1 as well as the principles of effective judicial protection and rectitude of decision. A claim for compensation pursuant to Art 340 TFEU may be struck merely because the basic elements of the cause of action cannot be established to a minimal level.

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