

The defendant misused its powers within the meaning of the second paragraph of Article 230 of the EC Treaty. In carrying out its procedure, it was not seeking to put an end to infringements of the competition rules but to lower the charges for the conversion of foreign currencies.

The amount of the fine was also such as to render it unlawful. The defendant did not correctly apply the relevant principles for the calculation of fines.

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**Action brought on 25 February 2002 by Peter Finch against the Commission of the European Communities**

(Case T-55/02)

(2002/C 97/32)

(Language of the case: French)

An action against the Commission of the European Communities was brought before the Court of First Instance of the European Communities on 25 February 2002 by Peter Finch, residing in Luxembourg, represented by Jean-Noël Louis, lawyer, with an address for service in Luxembourg.

The applicant claims that the Court should:

- annul the Commission's decision concerning the crediting of years of pensionable service under the Staff Regulations to be taken into account pursuant to Article 11(2) of Annex VIII to the Staff Regulations in consequence of the transfer to the Community pension scheme of the pension rights acquired by the applicant prior to his entry into service;
- order the defendant to pay the costs.

*Pleas in law and main arguments*

The applicant, an official of the defendant institution who, prior to his entry into service, had worked in France, Belgium and the Netherlands and acquired pension rights under various pension schemes in those countries, is contesting the calculation contained in the contested decision, which relates to the crediting of all of the transferred rights. More specifically, the applicant is contesting the fact that the appointing authority took the date of his establishment as the reference date and not the date of his entry into service.

In support of his claims, the applicant pleads:

- infringement of Article 11(2) of Annex VIII to the Staff Regulations;
- infringement of the general provisions for the implementation of Article 11(2) of Annex VIII to the Staff Regulations;
- infringement of the principles of equal treatment and non-discrimination.

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**Action brought on 1 March 2002 by Léopold Radauer against the Council of the European Union**

(Case T-67/02)

(2002/C 97/33)

(Language of the case: French)

An action against the Council of the European Union was brought before the Court of First Instance of the European Communities on 1 March 2002 by Léopold Radauer, residing in Brussels, represented by Georges Vandersanden and Laure Levi, avocats.

The applicant claims that the Court should:

- annul the defendant's decision of 17 April 2001 fixing at 3 years, 10 months and 10 days the number of years of pensionable service to be taken into account for the applicant's Community pension following the transfer of his pension rights acquired in Austria prior to his entry into the service of the European Communities and, in so far as necessary, annul the Council decision, dated 15 November 2001, to reject the applicant's complaint of 17 July 2001;
- order the defendant to fix again, on an amended legal basis and in a manner devoid of any illegality, the years of pensionable service to be taken into account for the applicant's Community pension following the transfer of his pension rights acquired in Austria;
- order the defendant to pay all of the costs.

*Pleas in law and main arguments*

The single plea in law raised is the same as that in Case T-204/01 Maria-Luise Lindorfer v Council of the European Union (OJ C 317, 10.11.2001, p. 32).

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