

## ORDER OF THE COURT OF FIRST INSTANCE

**Action brought on 9 September 2004 by the Hellenic Republic against the Commission of the European Communities**

of 22 September 2004

(Case T-364/04)

**in Case T-44/03: Giorgio Lebedef and Others v Commission of the European Communities** <sup>(1)</sup>

(2004/C 314/51)

*(Language of the case: Greek)***(Officials — Remuneration — Travelling expenses — Amendment of the method of calculation — Second action relating to different years — Res judicata — Absence of material capable of calling in question the judgment delivered — Application manifestly unfounded)**

An action against the Commission of the European Communities was brought before the Court of First Instance of the European Communities on 9 September 2004 by the Hellenic Republic, represented by I. Khalkias and Eleni Evolopoulou, members of the State Legal Service.

(2004/C 314/50)

The applicant claims that the Court should:

*(Language of the case: French)*— annul or modify the contested decision. E 2004/561/EC/16.7.2004. <sup>(1)</sup>

In Case T-44/03: Giorgio Lebedef, an official of the Commission of the European Communities, residing in Senningerberg (Luxembourg), and the 49 other officials named in an annex to the order, represented by G. Bounéou, lawyer, with an address for service in Luxembourg, against Commission of the European Communities (Agents: J. Currall and V. Joris, with an address for service in Luxembourg) – application for annulment of the Commission's decision amending, for the years 1993, 1994 and 1995, the method used in calculating the annual expenses of travelling to Greece as regards the itinerary via Brindisi and also annulment of the applicants' reimbursement statements implementing that decision, the Court of First Instance (Third Chamber), composed of J. Azizi, President, M. Jaeger and F. Dehousse, Judges; H. Jung, Registrar, made an order on 22 September 2004, in which it:

*Pleas in law and main arguments*

In the contested decision the Commission, in clearing the accounts in accordance with Regulation (EEC) No 729/70 <sup>(2)</sup>, excluded from Community financing various expenditure incurred by the Hellenic Republic in the fruit and vegetables sector and in the sector of animal premiums, with the result that it is not recognised as legitimate Community expenditure and is chargeable to the Hellenic Republic.

More specifically, certain of that expenditure relates to production aid for processors of peaches, pursuant to Regulation No 2201/96 <sup>(3)</sup>, from which an amount was excluded on the ground that the minimum price was not complied with. In support of that limb of its action, the Hellenic Republic alleges that the provisions of Regulation No 2201/96 and of Regulation No 504/79 <sup>(4)</sup> were misinterpreted, that the principle of proportionality was infringed and that the factual circumstances were wrongly assessed.

1. *Dismisses the application;*2. *Orders the parties to bear their own costs.*<sup>(1)</sup> OJ C 101 of 26.4.2003.

Further, in the same decision expenditure relating to the sector of production aid for processing tomatoes was also excluded, on the ground that there were direct payments of the aid to tomato producer organisations rather than to the processors. In support of that limb of its action, the Hellenic Republic relies on exceptional circumstances, that is to say, the bankruptcy of processing undertakings and serious cash-flow difficulties, maintaining that there was no ensuing economic harm to the Community. It also alleges that the factual circumstances were wrongly assessed, that the principle of proportionality was infringed and that Article 7 of Regulation No 1258/1999 <sup>(5)</sup> and Article 8 of Regulation No 1663/1995 <sup>(6)</sup> were infringed.