

The applicant submits that the contested decision infringes Article 87(1) EC since:

- the Commission applied the wrong assessment period for the examination of what remuneration is to be considered as usual in the market and thus incorrectly applied the market-economy capital-investment test;
- the legal and economic classification of the capital investment was erroneous;
- the determination of the relevant capital base to be remunerated was erroneous;
- the Commission incorrectly determined 'reasonable remuneration' for the Helaba capital investment.

The applicant claims in addition that the contested decision should be annulled as it infringes the obligation to state reasons under Article 253 EC. The applicant contends that insufficient reasons were given for deducting Helaba's full refinancing costs on the ground that the capital investment was not liquid. According to the applicant, this deduction of the refinancing costs also infringes Article 87(1) EC.

Action brought on 21 April 2005 by Neophytos Neophytou against the Commission of the European Communities

(Case T-165/05)

(2005/C 155/55)

(Language of the case: English)

An action against the Commission of the European Communities was brought before the Court of First Instance of the European Communities on 21 April 2005 by Neophytos Neophytou, resident in Brussels (Belgium), represented by S. Pappas, lawyer.

The applicant claims that the Court should:

- cancel the contested decision;
- order the defendant to pay the costs of the proceedings.

Pleas in law and main arguments

The applicant contests the decision of the selection board in Competition EPSO/A/1/03 not to include his name in the reserve list for recruitment of assistant administrators for citizens of the Republic of Cyprus.

In support of its application, the applicant submits that the composition of the selection board infringed the principle of non-discrimination, that the final selection of the candidates did not comply with the requirements laid down in the notice of competition and that the selection board exceeded the limit of its discretionary powers by accepting candidates who held a degree in law for a competition in the field of public administration. The applicant also submits that the rejection of his complaint is vitiated by a lack of reasoning.

Action brought on 29 April 2005 by Borax Europe Ltd. against the Commission of the European Communities

(Case T-166/05)

(2005/C 155/56)

(Language of the case: English)

An action against the Commission of the European Communities was brought before the Court of First Instance of the European Communities on 29 April 2005 by Borax Europe Ltd., established in Guildford (United Kingdom), represented by D. Vandermeersch and K. Nordlander, lawyers.

The applicant claims that the Court should:

- annul the decision of the Commission, SG/B/2/IS/md D(2005) 1644, dated 21 February 2005;
- order the Commission to bear the costs of the procedure.

Pleas in law and main arguments

The pleas in law and main arguments invoked by the applicant are the same as those invoked in case T-121/05.