

Re:

Application for suspension of operation of Article 4(2) of Commission Decision C(2008) 3435 final of 16 July 2008 relating to a proceeding under Article 81 EC and Article 53 of the EEA Agreement (Case COMP/C2/38.698 — CISAC).

Operative part of the order

1. *The application for interim measures is dismissed.*
2. *Costs are reserved.*

Action brought on 23 October 2008 — Toland v Parliament

(Case T-471/08)

(2009/C 32/72)

*Language of the case: English***Parties**

Applicant: Ciarán Toland (Dublin, Ireland) (represented by: A. Burke, Solicitor, E. Regan, SC)

Defendant: European Parliament

Form of order sought

- Annul decision A(2008) 10636 of Vice-President Dianna Wallis MEP of the Bureau of the European Parliament of 11 August 2008 addressed to Ciaran Toland insofar as it refused the applicant access to Internal Audit Report No 06/02 concluded on 9 January 2008 of the Internal Audit Service of the European Parliament entitled 'Audit of the Parliamentary Assistance Allowance';
- Order the European Parliament to grant the applicant access to Internal Audit Report No 06/02 concluded on 9 January 2008 of the Internal Audit Service of the European Parliament entitled 'Audit of the Parliamentary Assistance Allowance';
- Order the European Parliament to pay the applicant's costs of these proceedings.

Pleas in law and main arguments

On 11 June 2008, the applicant applied to the European Parliament for access to the 2006 Annual Report of the European Parliament Internal Audit Service, including the 16 Audit reports referred to in paragraph 24 of the European Parliament Resolution of 22 April 2008. By letter of 23 June 2008, the applicant was granted partial access to one of the reports, the Internal Audit Report 07/01, and made a confirmatory application on the basis of Article 7(2) of Regulation (EC) No 1049/2001⁽¹⁾ for full access to the 16 Audit Reports. By letter of 11 August 2008, which came to the knowledge of the

applicant on 20 August 2008, the Vice-President of The European Parliament replied to the application granting access to 13 of the requested Internal Audit Reports, partial access to 2 of the other reports, while refusing access to one of them.

On the basis of its application made pursuant to Article 230 EC and in accordance to Regulation (EC) No 1049/2001, the applicant seeks partial annulment of Decision A(2008) 10636 of 11 August 2008, insofar as it rejected the applicant's request to obtain access to Report No 06/02 of the Internal Audit Service entitled 'Audit of the Parliamentary Assistance Allowance'.

The applicant submits that the contested decision is vitiated by manifest errors of law and of fact, is disproportionate and fails to state reasons, in that:

- (a) it advanced no grounds sustainable in law for refusal of access;
- (b) it abrogated to itself a discretion which it doesn't have in failing to have regard to the provisions of the legislation;
- (c) insofar as it advanced no legitimate grounds for refusal of access under Article 4(2) third indent or Article 4(3) of Regulation (EC) No 1049/2001;
- (d) it failed to consider whether there was an overriding public interest which might outweigh the grounds for refusal;
- (e) the Vice-President failed to find that the interests of democracy, openness and transparency are overriding public interests which outweigh the grounds for refusal;
- (f) it acknowledged that Internal Audit Report made recommendations for implementation of action plans within the regulatory and legislative process or failed to find that the interests of democracy, openness and transparency in the regulatory and legislative process are matters of citizen participation which constitute overriding public interest in disclosure.

⁽¹⁾ Regulation (EC) 1049/2001 of the European Parliament and of the Council of 30 May 2001 regarding public access to European Parliament, Council and Commission documents (OJ 2001 L 145, p. 43).

Action brought on 31 October 2008 — Umbach v Commission

(Case T-474/08)

(2009/C 32/73)

*Language of the case: German***Parties**

Applicant: Dieter C. Umbach (represented by: M. Stephani, lawyer)

Defendant: Commission of the European Communities