

Mario Berti
v Commission of the European Communities

(Wrongful act or omission on the part of the administration —
Non-contractual liability of the Commission)

Case 131/81

1. *Officials — Applications to the Court — Action for damages — Injury sustained by the child of an employee — Accident at a holiday camp organized by the defendant institution as part of its duties as an employer — Jurisdiction of the Court*
(EEC Treaty, Art. 179)
2. *Officials — Applications to the Court — Non-contractual liability of the defendant institution — Organization of holiday camps for the children of its employees — Accident insurance arranged by the institution — Full compensation for a child's material and aesthetic injuries — Duty of the institution*
(EEC Treaty, Art. 179; Staff Regulations of Officials, Arts. 90 and 91)
3. *Officials — Applications to the Court — Action for damages — Organization by the defendant institution of holiday camps for the children of its employees — Accident insurance arranged by the institution — Action seeking compensation for a child's non-material injuries — Inadmissibility*
(EEC Treaty, Art. 179)

1. Among the rights and duties arising from the employment relationship between an institution and its employees is the duty of the employer to provide for its employees various services of a social nature, some of which are distinguished by the fact that they are intended for the benefit of not only the employee but also the members of his family.

When, in the context of the rights and duties arising from the employment relationship, the institution has organized holiday camps and offered an employee the opportunity of sending his child to such a camp, the Court has unquestionably jurisdiction under Article 179 of the Treaty to decide a dispute between the institution and the employee as to the

¹ — Language of the Case: French

institution's liability for the consequences of an accident sustained in such a camp by the employee's child.

its conduct must be regarded as a wrongful act or omission for which it is liable.

2. When an institution undertakes to organize holiday camps for the children of its employees and to arrange insurance for the children to cover the injury resulting from any accident which they may sustain in such camps, it has a duty to ensure that holidays in those camps take place under the appropriate conditions and that if an accident occurs compensation will be provided in full. If the institution fails to do so
3. Compensation for non-material injury sustained by the child of an employee as the result of an accident at a holiday camp organized by an institution in the context of the employment relationship cannot be the subject-matter of an application to the Court by the child's father in his capacity as an employee on the basis of his employment relationship with the institution under the Staff Regulations.

In Case 131/81

MARIO BERTI, an official of the Commission of the European Communities, in his capacity as legal representative of his son Paolo, a minor, residing in Brussels, represented and assisted by Emile Drappier of the Brussels Bar, with an address for service in Luxembourg at the Chambers of Ernest Arendt, Centre Louvigny, 34b IV Rue Philippe-II,

applicant,

v

COMMISSION OF THE EUROPEAN COMMUNITIES, represented by its Principal Legal Adviser, Raymond Baeyens, acting as Agent, assisted by Robert Andersen of the Brussels Bar, with an address for service in Luxembourg at the office of Oreste Montalto, a member of its Legal Department, Jean Monnet Building, Kirchberg,

defendant,

APPLICATION in the terms set out in the applicant's conclusions,