

the basis of correct figures and, on the other hand, from the fact that the Commission is using different figures to calculate reference quantities for 1995 and 1996.

(<sup>1</sup>) OJ No L 193, 3. 8. 1996, p. 15.

**Action brought on 28 October 1996 by Yannick Chevalier-Delanoue against the Council of the European Union**

(Case T-172/96)

(97/C 9/32)

*(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 28 October 1996 by Yannick Chevalier-Delanoue, residing at Brussels, represented by Jean-Noël Louis, Thierry Demaseure and Ariane Tornel, of the Brussels Bar, with an address for service in Luxembourg at Fiduciaire Myson SARL, 30 rue de Cessange.

The applicant claims that the Court should:

- annul the decision of the Council of 29 January 1996 not to increase his annual leave by additional travelling time,
- order the defendant to pay the costs.

*Pleas in law and main arguments adduced in support:*

The applicant, an official at the Council whose place of origin was fixed as Washington, states that he is challenging the decision whereby the appointing authority refuses to add to the duration of the annual leave to which he is entitled travelling time calculated by taking into account the needs and, in particular, the actual duration and conditions of the journey as well as the period of adjustment/recovery resulting from the time difference.

He considers that the travelling time of two days granted to him in reliance on the rules generally applied to officials whose place of origin is outwith Europe covers only the duration of the journey, but takes no account of the time to recover from the fatigue to which such a journey gives rise. In the view of the applicant, this means that the appointing authority treats officials whose place of origin is situated outwith Europe differently from those whose place of origin is situated within Europe and who are entitled, in accordance with Article 7 of Annex V to the Staff Regulations, to an increase of their holiday in order to take account of the strain of the journey notwithstanding the fact that they are not faced with the problem of recovering from the effects of jet-lag. He concludes that the contested decision was adopted in breach of the principle of equal treatment and non-discrimination as well as of Article 7 (5) of Annex V to the Staff Regulations.

**Action brought on 20 September 1996 by Ernesto Brognieri against the Commission of the European Communities**

(Case T-174/96)

(97/C 9/33)

*(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 20 September 1996 by Ernesto Brognieri, residing at Barasso (Italy), represented by Eric Boigelot, of the Brussels Bar, with an address for service in Luxembourg at the Chambers of Louis Schiltz, 2 rue du Fort Rheinsheim.

The applicant claims that the Court should:

- annul the decision of 30 November 1995 concerning the award of shiftwork allowance, in compliance with the judgment delivered by the Court of First Instance on 8 June 1995 in case T-583/93,
- order all sums due thereunder to be paid to the applicant in whole, both principal and default interest, the amount of the principal being assessed, without prejudice, in particular to increases during the course of the proceedings, at the sum of Lit 24 997 792, with interest to be assessed at the rate of 8 % per annum,
- order the defendant to pay all the costs.

*Pleas in law and main arguments adduced in support:*

The applicant, who is the same as in Cases T-583/93, settled by judgment of 8 June 1995, and in Case T-148/96, still pending, challenges the decision of the appointing authority of 30 November 1995 awarding him the shiftwork allowance from 1 March 1993 until 31 December 1993.

He complains in particular that the decision ignores the fact that the decision regularizing his position was not taken until 28 November 1995 and that the operative part of the said judgment of 8 June 1995 required the payment of sums intended to cover the period between 1 March 1993 and the date on which the decision regularizing his position was adopted. That date cannot refer to the date of a decision nearly two years before the judgment.

In support of his claims, the applicant alleges infringement of Articles 26 and 56a of the Staff Regulations, and Articles 176 and 179 of the Treaty of Rome, and infringement of the principle of *res judicata*.