

Action brought on 13 July 2000 by Zisis Khristou Drouvis against the Commission of the European Communities

(Case T-184/00)

(2000/C 335/83)

(Language of the case: Greek)

An action against the Commission of the European Communities was brought before the Court of First Instance of the European Communities on 13 July 2000 by Zisis Khristou Drouvis, resident at Odos Parmenidou 7, Marousi, Attica, Greece, represented by Ioannis Stamouolis, of the Athens Bar, with an address for service in Luxembourg at the Chambers of Myriam Pierrat, 2 Place Winston Churchill, L-2014 Luxembourg.

The applicant claims that the Court should:

- hold his application lawful and well founded;
- order the amendment of the measure of November 1999 determining his pension, so that it is set at a rate equal to the rate for persons who establish their residence in the United Kingdom;
- otherwise, and purely in the alternative, order the resetting of his pension at the level paid to persons who have established their residence in Belgium.

Grounds for annulment and main arguments

The applicant challenges the measure determining his monthly pension, to which the 'weighting' laid down for Greece was applied; that weighting is equal to 86,5 % of the pension paid to persons who have established their residence in Belgium, who are entitled to 100 % of the resulting pension.

The applicant submits in that regard that Article 82 of the Staff Regulations, which requires pensions to be 'weighted' depending on the place where the pensioner proposes to establish his residence, is contrary to the provisions of the European Convention on Human Rights, which constitute 'general principles of Community law' and offends against the principle of equal treatment and the applicant's right to freedom of movement and establishment in the territory of the Member States of the Union; for those reasons it is invalid.

Action brought on 11 September 2000 by the International and European Public Services Organisation (IPSO) and the Union of Staff of the European Central Bank (USE) against the European Central Bank

(Case T-238/00)

(2000/C 335/84)

(Language of the case: German)

An action against the European Central Bank was brought before the Court of First Instance of the European Communities on 11 September 2000 by the International and European Public Services Organisation (IPSO) and the Union of Staff of the European Central Bank (USE), Frankfurt am Main, Germany, represented by Christian Roth, Tanja Raab-Rhein and Michael Roth, Rechtsanwälte, Frankfurt am Main.

The applicants claim that the Court should:

- annul the decision of the defendant of 7 July 2000,
- order the defendant to pay the costs.

Pleas in law and main arguments

The applicants are trades unions which represent employees of the ECB. They seek the annulment of a letter of the Vice-President of the ECB refusing to act on certain requests from the applicants. The applicants had, in previous correspondence, requested the defendant, first, to revoke certain parts of its Staff Rules, since, in the applicants' submission, those provisions inadmissibly restricted the staff's right to strike. Second, the applicants had requested that a provision be inserted in the Conditions of Employment for Staff of the ECB to enable the Conditions of Employment to be amended by collective agreements.

In the application it is submitted that the letter of the Vice-President should be regarded as a decision of the defendant. That decision infringes, in the performance of the contract, applicable legal rules and fails to recognise, in particular, the importance of the fundamental right of freedom of association. In the exercise of its discretion, the defendant has given consideration exclusively to its interests as an employer. It has thereby failed to appreciate that, in laying down its general Conditions of Employment, it must also take account of the rights of trades unions.

Furthermore, the Executive Board of the ECB was not competent to adopt Articles 1.4.2, 1.4.3 and 1.4.7 of the Staff Rules. The same is true of the refusal of the application to insert in the Conditions of Employment, by decision of the Governing Council of the ECB, provisions on collective agreements. The refusal of the applicants' requests in that respect could not issue from the Vice-President of the ECB.

The applicants submit, finally, that the decision does not contain a sufficient statement of reasons. It merely states that the defendant finds the applicants' proposal inappropriate. There is no explanation as to the considerations on which the defendant bases that statement.

—————

**Action brought on 28 August 2000 by SCI UK Limited
against the Commission of the European Communities**

(Case T-239/00)

(2000/C 335/85)

(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 28 August 2000 by SCI UK Limited (Irvine, United Kingdom), represented by Mr. Leslie Allen, of Ernst & Young, London.

The applicant claims that the Court should:

- annul the Commission decision of 29 June 2000 (C(2000) 1684 final) addressed to the United Kingdom of Great Britain and Northern Ireland concerning an application for the repayment of import duty.

Pleas in law and main arguments:

The applicant imported computer components, including dynamic random access memories ('DRAMs') originating in Japan. Pursuant to Council Regulation No 2112/90⁽¹⁾, those imports were subject to a 60 % anti-dumping duty, which was, however, not levied upon the presentation of price-undertaking documents issued by the Japanese producers. Subsequent to a criminal investigation it appeared that some certificates issued to the applicant were invalid for various reasons and had been fraudulently used. HM Customs & Excise therefore issued to the applicant post clearance demands in the amount of anti-dumping duty unpaid. Subsequently, the British authorities submitted an application to the Commission for a decision as to whether the repayment of import duties was justified on the basis of Article 13 of Regulation No 1430/79⁽²⁾. That application was rejected by the contested decision.

The applicant submits that the two conditions laid down in Article 13 are satisfied, namely the existence of special circumstances and the absence of any obvious negligence or deception. It claims that it was the Japanese producer who failed properly to execute the undertaking measure. The applicant exercised all due care and was an innocent victim of fraud.

Moreover, the Commission failed to comply with its obligation effectively to monitor the undertaking measures. It is inequitable to require the applicant to bear a loss that it would not otherwise have incurred had the Commission and the Japanese producers properly carried out their obligations as defined in the price-undertaking measures.

—————

⁽¹⁾ Council Regulation (EEC) No 2112/90 of 23 July 1990 imposing a definitive anti-dumping duty on imports of certain types of electronic microcircuits known as DRAMs (dynamic random access memories) originating in Japan and collecting definitively the provisional duty, OJ 1990 L 193, p. 1.

⁽²⁾ Council Regulation (EEC) No 1430/79 of 2 July 1979 on the repayment or remission of import or export duties, OJ 1979 L 175, p. 1.

—————

**Action brought on 14 September 2000 by Compagnia
Lavoratori Portuali s.c.a r.l. and Others against Com-
mission of the European Communities**

(Cases T-242/00, T-243/00, T-257/00, T-258/00, T-259/00,
T-265/00 and T-267/00)

(2000/C 335/86)

(Language of the case: Italian)

An action against the Commission of the European Communities was brought before the Court of First Instance of the European Communities on 14 September 2000 by Compagnia Lavoratori Portuali San Marco Venezia a r.l. and Others, represented by Andrea Bortoluzzi and Chiara Montagner, of the Venice Bar.

The applicants claim that the Court should:

- annul Articles 1 and 2 of Commission Decision 2000/394/EEC;
- in the alternative, annul Article 5 of the decision
- order the Commission to pay the costs.

Pleas in law and main arguments

The pleas in law and main arguments are those relied upon in Cases T-234/00 *Fondazione Opera S. Maria della Carità v Commission* and T-235/00 *Codess Sociale and Others*⁽¹⁾.

—————

⁽¹⁾ not yet published.