

Pleas in law and main arguments

The applicant, an official of the European Parliament, obtained a court decision on 6 August 1999 to the effect that her daughter should reside mainly with her. The applicant and her husband, also an official, were divorced by decree of 31 October 2001, which became final on 12 January 2002. The Parliament decided to pay the applicant only half the travel expenses for her daughter, and to do so as from 2002, the year in which the divorce took place.

By this application the applicant contests that decision, on the basis of Article 8 of Annex VII to the Staff Regulations. The applicant submits that, in view of the decision granting her primary custody of her daughter, the latter should be regarded as being her dependent child and therefore that the travel expenses should be paid to her at the full rate.

Action brought on 23 October 2003 by Bruno Gollnisch and Others against the European Parliament

(Case T-357/03)

(2004/C 7/72)

(Language of the case: French)

An action was brought before the Court of First Instance of the European Communities on 23 October 2003 against the European Parliament by Bruno Gollnisch, of Limonest (France), Marie-France Stirbois, of Villeneuve-Loubey (France), Carl Lang, of Boulogne-Billancourt (France), Jean-Claude Martinez, of Montpellier (France), Philip Claeys, of Overijse (Belgium) and Koen Dillon, of Antwerp (Belgium), represented by Wallerand de Saint Just, lawyer.

The applicants claim that Court of First Instance should:

- annul the decision of the Bureau of the European Parliament of 2 July 2003 and more particularly the provisions thereof adopting a proposal by Mr Poettering concerning the report of Mr Van Hulten, which amends the rules on the use of budgetary heading 3701;
- order the European Parliament to pay the costs and lawyer's fees amounting to EUR 10 000.

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Following the entry into force on 1 January 2001 of the new financial regulation applicable to the general budget of the European Communities ⁽¹⁾, the Parliament commenced a procedure for amendment of the rules concerning budgetary heading 3701, the credits of which are intended to cover administrative and operational expenses of the political groups and of the secretariat for non-attached Members. On 2 July 2003 the Bureau of the Parliament decided to adopt the revised version of the latter rules, subject to amendment of the Parliament's Rules of Procedure and other changes which might prove necessary following further consultations.

In support of their application for annulment of the decision adopting the new rules, the applicant invoke first the alleged failure to comply with formal requirements laid down for the adoption of such rules. They contend that the new rules were notified to them in the form of a proposal which did not purport to be the final version of an official document. They also submit that the contested measure was adopted without the budgetary control committee, from which an opinion had been sought, having issued its report and that therefore an essential procedural requirement had been disregarded. In addition to matters of form, the applicants also claim that the new rules infringe the principle of equal treatment by prohibiting new categories of expenses or employment of staff under budgetary heading 3701 only as far as non-attached Members are concerned.

⁽¹⁾ Council Regulation (EC, Euratom) No 1605/2002 of 25 June 2002 on the Financial Regulation applicable to the general budget of the European Communities (OJ L 248 of 16.9.2002, p. 1).

Action brought on 17 October 2003 by Siegfried Krahl against the Commission of the European Communities

(Case T-358/03)

(2004/C 7/73)

(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 17 October 2003 by Siegfried Krahl, residing in Zagreb (Croatia), represented by Sébastien Orlandi, Albert Coolen, Jean-Noël Louis and Étienne Marchal, lawyers, with an address for service in Luxembourg.

The applicant claims that the Court should:

- annul the decision not to reimburse to the applicant his accommodation expenses of EUR 4 200 per month in full;
- order the defendant to pay the costs.

Pleas in law and main arguments

In support of his application, the applicant submits that the defendant infringed Articles 5 and 23 of Annex X to the Staff Regulations, in so far as it may not refuse to reimburse his accommodation expenses when it did not provide any accommodation and offered no alternative.

Action brought on 27 October 2003 by GRAFTECH INTERNATIONAL LTD. against the Commission of the European Communities

(Case T-359/03)

(2004/C 7/74)

(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 27 October 2003 by GRAFTECH INTERNATIONAL LTD., Wilmington, Delaware, USA, represented by K.P.E. Lasok QC and Brian Hartnett, Barristers with an address for service in Luxembourg.

The applicant claims that the Court should:

- annul the contested Commission Decisions dated 18 July 2001, 23 July 2001, 9 August 2001, 18 August 2003, 11 September 2003 and 18 September 2003 requiring GTI to perform its obligations under the Decision of 18 July 2001 or post a bank guarantee or face imminent enforcement of the Decision of 18 July 2001 as of September 2003;
- annul the contested Commission Decisions specifically to the extent that they apply interest at a rate of 6,04 % when current market interest rates are significantly lower;

- annul the contested Commission Decisions specifically to the extent that they apply interest at a default rate of 8,04 %;
- order the Commission to pay its own costs and those incurred by the applicant.

Pleas in law and main arguments

By the Decision made on 18 July 2001 the Commission found that the applicant and seven other undertakings had infringed Article 81 of the EC treaty by participating in a complex of agreements and concerted practices in the graphite electrodes sector. The same Decision imposed a fine on the applicant and required that it be paid within 3 months of notification with interest of 8,04 % payable if the fine was not paid by the stated date. This Decision was notified to the applicant under cover of a letter dated 23 July 2003 which also indicated that if the applicant brought proceedings before the Court of First Instance against the imposition of the fine, no enforcement proceedings would be taken as long as the case was pending before the court, on condition that the applicant paid interest on the amount of the fine at a rate of 6,04 % and provided a bank guarantee for the amount of the fine. The applicant made representations to the Commission proposing different payment terms, which were rejected by a letter of the Commission dated 9 August 2001. The applicant also introduced proceedings against the Decision of 18 July 2001 imposing the fine⁽¹⁾. Further proposals by the applicant on payment facilities were rejected by the Commission by letters dated 18 August 2003, 11 September 2003 and 18 September 2003.

By the present action the applicant attacks all the Decisions concerning payment terms. It submits that it is an error of law, on the part of the Commission, to consider that no security other than a bank guarantee could be accepted by the Commission. It also submits that the Decision of 18 August 2003 infringes the principle of proportionality by failing to achieve a fair balance between the interest of the parties and in particular the applicant's interest in granting a lien over its unencumbered assets instead of the bank guarantee requested by the Commission. The applicant also invokes alleged manifest errors of fact relating to the Commission's finding that the applicant has not shown that it cannot comply with the Commission's Decision and the Commission's assessment of its financial position and the value of the lien it had offered. The applicant further submits that the Commission's Decisions on the applicable interest rates are manifestly erroneous and that the Commission has breached essential procedural requirements in that it failed to afford the applicant an opportunity to be heard before adopting a decision to enforce its first Decision of 18 July 2001.

⁽¹⁾ Case T-246/01 notified in OJ C 17, 19.01.2002, p. 16.