

Action brought on 3 March 2004 by Alexander Just against the Commission of the European Communities

(Case T-91/04)

(2004/C 106/156)

(Language of the case: German)

An action against the Commission of the European Communities was brought before the Court of First Instance of the European Communities on 3 March 2004 by Alexander Just, residing in Hoeilaart (Belgium), represented by G. Leibitsch, lawyer.

The applicant claims that the Court should:

- declare void and annul the decision of the selection board of open competition COM/A/2/02 of 22 April 2003 by which the applicant was refused admission to the next stage of the selection procedure on the basis of the results of the preliminary test;
- declare void and annul the decision of the selection board of the appointing authority of 25 November 2003 on the applicant's complaint of 11 July 2003 under Article 90(2) of the Staff Regulations;
- order the defendant to pay the costs.

Pleas in law and main arguments

The applicant took part in the tests for open competition COM/A/2/02 to constitute a reserve of assistant administrators in the field of 'environment'. He was informed by the selection board that the result he had obtained in all the tests was insufficient to admit him to the next stage of the selection procedure. In support of his action the applicant submits that some of the questions in test 'a)' were incorrect. If those questions had been annulled, the applicant would have achieved the necessary marks for admission to the next stage.

Action brought on 4 March 2004 by Theodoros Kallianos against Commission of the European Communities

(Case T-93/04)

(2004/C 106/157)

(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 4 March 2004 by Theodoros

Kallianos, residing in Kraainem (Brussels), represented by Guy Archambeau, lawyer, with an address for service in Luxembourg.

The applicant claims that the Court should:

- annul the decision of the appointing authority of 2 December 2003 replying to the complaint brought by Mr Kallianos under No R/335/03 of 2 July 2003;
- call on the Commission to repay to Mr Kallianos the whole of the pay and amounts withheld which it applied without being entitled to do so in respect of the remuneration payable to Mr Kallianos from the date on which he was granted a divorce by judgment No 2179/1999 of the Court of First Instance, Athens, of 8 March 1999, including indexation of the amount overpaid in aliment on the unilateral decision of 18 September 2002 adopted by the Commission (PMO –department concerned with salaries) or at the very least from judgment No 203/2003 delivered by the Court of Cassation of Greece on 7 February 2003 and of which it was aware;
- order the Commission to pay to the applicant 20 % of the abovementioned amount by way of damages for the material and non-material damage suffered, including the legal costs incurred;
- order the Commission to pay the costs of effecting service including the costs of translation of the Greek judgments into French, documents which were in any event made available to the Commission in good time, amounting to EUR 1 500;
- order the Commission to pay the costs of these proceedings and for the expenditure incurred.

Pleas in law and main arguments

The applicant is an official working at the Commission. Following an order of the Court of First Instance, Brussels, fixing maintenance payments payable to the applicant's spouse, the Commission began to withhold part of the applicant's salary. By his application, the applicant is challenging the amount withheld alleging error of law and of fact, absence of an enforcement order justifying the withholding of those amounts and infringement of Regulation No 1347/2000⁽¹⁾.

⁽¹⁾ Council Regulation (EC) No 1347/2000 of 29 May 2000 on jurisdiction and the recognition and enforcement of judgments in matrimonial matters and in matters of parental responsibility for children of both spouses *Official Journal L 160, 30/06/2000 p. 19*.