

English edition

## Information and Notices

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## I

*(Information)*

## COMMISSION

ECU (\*)

21 October 1986

(86/C 266/01)

Currency amount for one unit:

Belgian and Luxembourg franc con.	43,2480	Spanish peseta	138,801
Belgian and Luxembourg franc fin.	43,4754	Portuguese escudo	153,178
German mark	2,08280	United States dollar	1,04558
Dutch guilder	2,35413	Swiss franc	1,70692
Pound sterling	0,728884	Swedish krona	7,16957
Danish krone	7,84188	Norwegian krone	7,65733
French franc	6,82243	Canadian dollar	1,45462
Italian lira	1442,12	Austrian schilling	14,6518
Irish pound	0,764316	Finnish markka	5,09199
Greek drachma	141,070	Japanese yen	162,296
		Australian dollar	1,64219
		New Zealand dollar	2,08616

The Commission has installed a telex with an automatic answering device which gives the conversion rates in a number of currencies. This service is available every day from 3.30 p.m. until 1 p.m. the following day.

Users of the service should do as follows:

- call telex number Brussels 23789;
- give their own telex code;
- type the code 'cccc' which puts the automatic system into operation resulting in the transmission of the conversion rates of the ECU;
- the transmission should not be interrupted until the end of the message, which is marked by the code 'ffff'.

*Note:* The Commission also has an automatic telex answering service (No 21791) providing daily data on calculation of monetary compensatory amounts for the purposes of the common agricultural policy.

(\*) Council Regulation (EEC) No 3180/78 of 18 December 1978 (OJ No L 379, 30. 12. 1978, p. 1), as amended by Regulation (EEC) No 2626/84 (OJ No L 247, 16. 9. 1984, p. 1).

Council Decision 80/1184/EEC of 18 December 1980 (Convention of Lomé) (OJ No L 349, 23. 12. 1980, p. 34).

Commission Decision No 3334/80/ECSC of 19 December 1980 (OJ No L 349, 23. 12. 1980, p. 27).

Financial Regulation of 16 December 1980 concerning the general budget of the European Communities (OJ No L 345, 20. 12. 1980, p. 23).

Council Regulation (EEC) No 3308/80 of 16 December 1980 (OJ No L 345, 20. 12. 1980, p. 1).

Decision of the Council of Governors of the European Investment Bank of 13 May 1981 (OJ No L 311, 30. 10. 1981, p. 1).

### Commission notice concerning the reimbursement of anti-dumping duties

(86/C 266/02)

On 15 October 1986 the Commission, after consulting the Member States, has laid down the following guidelines regarding the application of Article 16 of Council Regulation (EEC) No 2176/84 <sup>(1)</sup> on the reimbursement of anti-dumping duties. These guidelines, which apply, *mutatis mutandis*, to Article 16 of Commission Decision No 2177/84/ECSC <sup>(2)</sup>, are laid down for the purpose of informing interested parties and guiding the internal procedure of the Commission.

#### I. PROCEDURE

##### 1. Standing of applicant

Any importer who has paid anti-dumping duties either directly or indirectly may apply for a reimbursement of those duties on condition that he has not been reimbursed by any other source.

##### 2. Form of application

The application must be submitted in writing in one of the official languages of the Community and must be signed by a person empowered to represent the applicant. All information referred to under I.3 must be presented in such a way as to facilitate the necessary calculations, having regard, in particular and in so far as this is known to the applicant, to the system and methodology used in the investigation leading to the imposition of the anti-dumping duty in question.

##### 3. Contents of application

The Commission intends to consider only those applications which demonstrate that the dumping margin has been reduced or eliminated and indicate the extent to which a reimbursement is considered justified.

They must provide the information necessary for the examination of the admissibility and merits of the application together with documentation and proof sufficient to allow verification. This information must relate to the following elements:

##### A. Duty collected

- (a) invoice(s) and other documents on which customs procedures were based;

- (b) customs documents showing, in particular, the basis for determining the amount of the duties to be levied (the type and quantity of the goods declared and the rate of anti-dumping duties applied) as well as the amount of the anti-dumping duty levied;

- (c) receipt or other proof of duty paid;

- (d) declaration that:

- the duty collected has not been reimbursed by the exporter or by any third party, and that no future reimbursement will be made or accepted,
- the prices on which the application is based are genuine,
- there is no compensatory arrangement made before, since or simultaneously with the sale(s) under consideration.

#### B. Actual dumping margin

- (a) Normal value

Normal value for the exported products in question for the six months preceding the date of release for free circulation of these products, except for the case of point 4; where this information is not available to an applicant importer who is not associated with the exporter concerned, a statement that the information has been requested from the exporter.

- (b) Export price

Except in the case of point 4, the following information on export prices:

- (i) Sole importer

Where the importer concerned is the sole importer of the like products sold by the exporter to the Community and where during the six months preceding the date of release for free circulation of the shipment in question:

- export prices to him have not varied, information on the export price of the shipment in question,
- export prices to him have varied, information on export prices of all shipments from the exporter in question released for free circulation within the Community during that period;

<sup>(1)</sup> Council Regulation (EEC) No 2176/84 of 23 July 1984 on protection against dumped or subsidized imports from countries not members of the European Economic Community (OJ No L 201, 30. 7. 1984, p. 1).

<sup>(2)</sup> Commission Decision No 2177/84/ECSC of 27 July 1984 on protection against dumped or subsidized imports from countries not members of the European Coal and Steel Community (OJ No L 201, 30. 7. 1984, p. 17).

## (ii) Several importers

Where there are several importers of the like products sold by the exporter concerned to the Community and where during the six months preceding the date for free circulation of the shipment in question:

- export prices to all importers have been identical, information on the export price of the shipment in question,
- export prices have varied, but at any relevant time have been the same for all importers, information on export prices of all shipments from the exporter in question released for free circulation during that period to the importer concerned,
- export prices have varied in time and from importer to importer, information on export prices of all shipments from the exporter in question released for free circulation within the Community during that period; where this information is not available to an applicant importer who is not associated with the exporter concerned, a statement that the information has been requested from the other importers or from the exporter, as the case may be;

## (iii) Associated importer

Where the importer is associated with the exporter, in addition to the export prices referred to under (i) or (ii) above, the corresponding information must be provided, *mutatis mutandis*, on resale prices to the first independent buyer within the Community.

Importer and exporter will be deemed to be associated, in particular, in cases where:

- one of them directly or indirectly controls the other,
- or
- both of them are directly or indirectly controlled by a third person,
- or
- together they directly or indirectly control a third person.

4. *Recurring applications*

- (a) Where applications for reimbursement of anti-dumping duties levied on three or more separate consignments of the like product within a period of six months or more are received or are likely to be received, the Commission may establish the actual dumping margin on the basis of data relating to the period in question (the 'reference period'). In such cases information on normal value, export prices, and, where the applications relate to an associated importer, on resale prices to the first independent buyer in the Community should be supplied, for the

reference period, only with the last of the applications relating to that period;

- (b) Where applications relate to two or more non-consecutive reference periods, information on normal values and export prices or, where applicable, resale prices to the first independent buyer may also be required for the intermediate periods;
- (c) The examination of the applications in question will be suspended until the data in respect of the whole reference period have been received. The result of such examination will be the basis for deciding all applications for reimbursement referring to consignments released for free circulation within the reference period.

5. *Possibility of review*

When examining any application for reimbursement, the Commission can decide at any time to initiate a review in accordance with Article 14 of Regulation (EEC) No 2176/84. The proceeding regarding the application for reimbursement will be suspended until the termination of the review.

6. *Confidentiality*

The rules of confidentiality as laid down in Article 8 of Regulation (EEC) No 2176/84 apply to all information received in connection with applications for refunds of anti-dumping duties.

7. *Incomplete applications*

Where an application does not contain all information necessary to decide upon its merits, the Commission will set a reasonable time limit for the receipt of the required information from the applicant or from the exporter or the other importers concerned, as the case may be. Failure to supply this information within the time limit may lead to the rejection of the application. Information received after the expiry of the time limit will only be accepted where the party supplying the information can show that the delay was caused by *force majeure*.

8. *Addressee of application*

The application must be addressed to the Commission of the European Communities <sup>(1)</sup> and be submitted via the competent authorities of the Member State in whose territory the products were released for free circulation. The Commission, upon request, will furnish the addresses of the competent national authorities.

<sup>(1)</sup> The Commission of the European Communities, Directorate-General for External Relations, DG I-C-1, 200 rue de la Loi, B-1049 Brussels, Belgium (Telex: COMEU B 21877).

### 9. *Information of other parties*

The Commission may inform the parties directly concerned of any application for the reimbursement of anti-dumping duties and may afford them an opportunity to comment.

### 10. *Time limits*

All applications for reimbursement must be introduced within the time limits set out in Article 16 of Regulation (EEC) No 2176/84, even in cases where the Regulation imposing the duties in question is being challenged before the Court of Justice of the European Communities.

## II. MERITS

The Commission intends to decide on the merits of an application in accordance with the following principles:

### 1. *Duty collected*

In determining the anti-dumping duty collected for the shipments in question, only those payments of duties for which sufficient proof has been provided will be taken into account. Payments of duties for which the applicant has been reimbursed by the exporter or a third party or has not provided the declaration referred to in I.3.A. (d) will not be taken into account.

### 2. *Actual dumping margin*

(a) The actual dumping margin will be established by comparing

- the normal value referred to in I.3.B. (a), and
- the export price(s) derived from the information referred to in I.3.B. (b),

in accordance with the relevant provisions of Article 2 of Regulation (EEC) No 2176/84;

(b) Calculations will be based as far as possible on the same method applied during the original investigation, in particular with regard to any application of weighted averages or representative samples;

(c) Where an export price is constructed pursuant to Article 2 (8) (b) of Regulation (EEC) No 2176/84, any payment of anti-dumping duties for the release for free circulation of the product concerned in the Community will be regarded as a cost incurred between importation and resale.

Consequently, any reimbursement, in total or in part, of anti-dumping duties paid on shipments imported by an importer which is associated with the exporter

concerned will only be granted under the following circumstances, all other factors remaining equal:

- where the products in question were resold to the first independent buyer on a duty unpaid basis, a reimbursement will be granted to the company which paid the duty, if the resale price has been increased by the amount of the dumping margin or a part thereof,
- where the products in question were resold to the first independent buyer on a duty paid basis, a reimbursement will be granted, if the resale price has been increased by an amount equivalent to the margin of dumping and the amount of the duty paid. In this case the applicant is not prevented from passing on to the buyer the amount eventually reimbursed.

If the costs incurred between importation and resale by an importer who is associated with an exporter have been reduced since the investigation period, the increase in the resale price necessary to justify a reimbursement would be less than envisaged above, by an amount corresponding to the cost reduction;

(d) The excess amount to be reimbursed will normally be calculated as the difference between the duty collected and the actual dumping margin, expressed either as a percentage of the value used by the competent authorities for the determination of the anti-dumping duty or in absolute terms.

### 3. *Evidence*

(a) The Commission will verify in detail all information necessary for deciding upon the admissibility and merits of the application in accordance with Article 7 (2) and (3) of Regulation (EEC) No 2176/84;

(b) If the evidence provided by the applicant or by a third party on his behalf with regard to normal value and export prices cannot be verified to the extent deemed necessary by the Commission or is not sufficient to allow proper calculation of the actual dumping margin as set out above, that margin will be considered equal to the one established during the investigation which led to the imposition of the duty for which a reimbursement is claimed.

### 4. *Rejection of application and repeal of decision to reimburse*

(a) Any application containing false declarations or information in respect of data upon which a decision has to be based will normally be rejected outright;

(b) If it is found that information or evidence upon which a decision granting a reimbursement was based is incorrect, the decision will be revoked.

**Notice pursuant to Article 19 (3) of Council Regulation No 17/62 <sup>(1)</sup> — Case IV/31.682 —  
Pasta manufacturers**

(86/C 266/03)

1. On 22 October 1985 the Federation of German Pasta Manufacturers (Bundesverband der Deutschen Teigwarenindustrie e. V.) notified to the Commission an outline agreement between pasta manufacturers, for which it sought negative clearance under Article 2 of Regulation No 17 or alternatively exemption under Article 85 (3) of the EEC Treaty. The agreement is in the form of a joint declaration with the State Government of Baden-Württemberg signed in September 1985.

2. The notified agreement covers pasta and the egg products used as ingredients in pasta. Pasta is defined in accordance with the German pasta order as comprising noodles of all kinds including vermicelli, fine vermicelli, spaghetti, macaroni and 'spätzle'. Egg products are defined in conformity with the egg products order as products of eggs, in particular liquid, deep frozen or dried whole egg, egg yolk or egg white.

3. (a) The manufacturers who sign the agreement undertake the following obligations in respect of their entire production of pasta:

(i) to use only egg products meeting certain minimum specifications and liquid egg only in pasteurized form;

(ii) to cause their suppliers of egg products:  
— to guarantee that the egg products they supply conform to the minimum specifications, and in particular that they do not contain any partly incubated or addled eggs or unauthorized traces of pharmaceutical products, and that the eggs have been broken by the method authorized in the Federal Republic, and  
— undertake to submit to regular inspections by official food hygiene inspectors, both in the Federal Republic and abroad;

(iii) to inspect all the egg products supplied to them for full compliance with food hygiene regulations, and in particular for the absence of partly incubated or addled eggs and traces of pharmaceutical products;

(iv) to give the official food hygiene inspection services at least 24 hours notice of all deliveries of egg products;

(v) to mark each package with a batch number allowing the origin of the ingredients to be traced.

(b) Pasta manufacturers who sign the agreement and comply with its provisions may have the following statement printed on the packaging of their products: 'This product was made solely from ingredients subject to the stricter hygiene inspection requirements laid down in the joint declaration of pasta manufacturers with the State of Baden-Württemberg of September 1985.'

(c) The majority of the pasta manufacturers who have signed the outline agreement are from Baden-Württemberg. However, signature is open to pasta manufacturers from other states in the Federal Republic and other EEC countries.

(d) The Federation of German Pasta Manufacturers monitors the signatories' compliance with the agreement as trustee.

4. The Federation does not think that the notified agreement will affect competition between pasta manufacturers who sign the agreement and those who do not, or between egg product manufacturers.

5. The Commission proposes to adopt a favourable attitude towards the notified agreement, the key provisions of which are outlined above.

The Commission invites interested third parties to send their comments on the case within one month from the date of publication of this notice to the following address, quoting reference 'IV/31.682 — Pasta manufacturers':

Commission of the European Communities,  
Directorate-General for Competition,  
Directorate restrictive practices and abuse of dominant positions II,  
200, rue de la Loi,  
B-1049 Brussels.

<sup>(1)</sup> OJ No 13, 21. 2. 1962, p. 204.

**Recapitulation of current tenders, published in the *Supplement to the Official Journal of the European Communities*, financed by the European Economic Community under the European Development Fund (EDF) or the European Communities budget**

(week: 14 to 18 October 1986)

(86/C 266/04)

Invitation to tender No	Number and date of 'S' Journal	Country	Subject	Final date for submission of bids
2474	S 201, 17. 10. 1986	Bolivia	BO-Santa Cruz de la Sierra: various supplies	17. 11. 1986
2485	S 202, 18. 10. 1986	Burkina Faso	BF-Ouagadougou: various supplies	18. 12. 1986
2486	S 202, 18. 10. 1986	Nicaragua	NI-Managua: various supplies	3. 12. 1986
2488	S 202, 18. 10. 1986	Nicaragua	NI-Managua: various supplies	5. 12. 1986

## COURT OF JUSTICE

### ORDER OF THE PRESIDENT OF THE COURT of 26 September 1986

**in Case 231/86 R: Breda-Geomineraria v. Commission of  
the European Communities** <sup>(1)</sup>

(86/C 266/05)

*(Language of the Case: French)*

*(Provisional translation; the definitive translation will be  
published in the Reports of Cases before the Court)*

In Case 231/86 R: Breda-Geomineraria, a joint venture composed of Istituto Recherche Breda SpA, whose registered office is at 336 Viale Sarca, Milan, and Geomineraria Italiana Srl, whose registered office is at 21 Via Boves, Borgo San Dalmazzo (Cuneo), represented by Mario Spandre, of the Brussels Bar, with an address for service in Luxembourg at the Chambers of Georges Baden, 8 Boulevard Royal, against Commission of the European Communities (Agent: Marie-José Jonczy) — application for interim measures pending the decision of the Court in the applicant's action for the annulment, pursuant to Article 173 of the EEC Treaty, of the Commission's decision refusing to recognize that the applicants are the successful tenderers for a contract financed by the European Development Fund or, in the alternative, for a judgment pursuant to Articles 178 and 215 of the EEC Treaty declaring that the Commission has adopted a wrongful attitude and ordering it to pay damages to the applicants — the President of the Court of Justice of the European Communities made an order on 26 September 1986, the operative part of which is as follows:

1. *The application is dismissed;*
2. *Costs are reserved.*

<sup>(1)</sup> OJ No C 252, 9. 10. 1986.

### JUDGMENT OF THE COURT

of 30 September 1986

**in Case 174/83: Frigen Ammann and Others v. Council  
of the European Communities** <sup>(1)</sup>

*(Officials — Interest on salary arrears)*

(86/C 266/06)

*(Language of the Case: French)*

*(Provisional translation; the definitive translation will be  
published in the Reports of Cases before the Court)*

In Case 174/83: Frigen Amman and Others, officials of the Secretariat-General of the Council of Ministers of the European Communities, represented by Jean-Noël

<sup>(1)</sup> OJ No C 252, 20. 9. 1983.

Louis, of the Brussels Bar, with an address for service in Luxembourg at the Chambers of Nicolas Decker, 16 Avenue Marie-Thérèse, against Council of the European Communities (Agent: John Carbery) — application requesting the Court to:

Declare illegal and annul:

- the salary slips issued by the defendant for December 1982, in so far as they contain statements of salary arrears paid pursuant to Council Regulation (ECSC, EEC, Euratom) No 3139/82 of 22 November 1982 and not increased by interest in order to compensate for the financial loss suffered by the applicants, and,
- in so far as is necessary, the express or implied rejection of the complaints lodged by the applicants under Article 90 (2) of the Staff Regulations,

Order the defendant to compensate the applicants for the financial loss which they have incurred by the payment of a sum which the Court should fix at an amount equal to the total interest calculated by applying the normal rate to the amount of arrears payable in respect of each due date until the actual date of payment,

Order the defendant to pay the whole of the costs pursuant to Article 69 (2) of the Rules of Procedure and also the expenses necessarily incurred by the parties for the purpose of the proceedings, in particular travel and subsistence expenses and lawyer's fees pursuant to Article 73 (b) of those Rules,

the Court, composed of T. Koopmans, President of Chamber, for the President, K. Bahlmann and R. Joliet (Presidents of Chambers), G. Bosco, C. Kakouris, T. F. O'Higgins and F. Schockweiler, Judges; G. F. Mancini, Advocate-General; J. A. Pompe, Deputy Registrar, gave a judgment on 30 September 1986, the operative part of which is as follows:

1. *The application is dismissed;*
2. *The parties are to bear their own costs.*

### JUDGMENT OF THE COURT

of 30 September 1986

**in Case 175/83: Suzanne Culmsee and Others v.  
Economic and Social Committee** <sup>(1)</sup>

*(Officials — Interest on salary arrears)*

(86/C 266/07)

*(Language of the Case: French)*

*(Provisional translation; the definitive translation will be  
published in the Reports of Cases before the Court)*

In Case 175/83: Suzanne Culmsee and Others, officials of the Economic and Social Committee, represented by

<sup>(1)</sup> OJ No C 252, 20. 9. 1983.

Jean-Noël Louis, of the Brussels Bar, with an address for service in Luxembourg at the Chambers of Nicolas Decker, 16 Avenue Marie-Thérèse, against Economic and Social Committee (Agent: Marius Simond, assisted by Yvette Hamilius, of the Luxembourg Bar) — application for a declaration in the same terms as that sought in Case 174/83 <sup>(?)</sup> — the Court, composed of T. Koopmans, President of Chamber, for the President, K. Bahlmann and R. Joliet (Presidents of Chambers), G. Bosco, C. Kakouris, T. F. O'Higgins and F. Schockweiler, Judges; G. F. Mancini, Advocate-General; J. A. Pompe, Deputy Registrar, gave a judgment on 30 September 1986, the operative part of which is as follows:

1. *The application is dismissed;*
2. *The parties are to bear their own costs.*

<sup>(?)</sup> See p. 7 of this Official Journal.

#### JUDGMENT OF THE COURT

of 30 September 1986

in Case 176/83: Alain Pierre Allo and Others v.  
Commission of the European Communities <sup>(1)</sup>  
(Officials — Interest on salary arrears)

(86/C 266/08)

(Language of the Case: French)

(Provisional translation; the definitive translation will be published in the Reports of Cases before the Court)

In Case 176/83: Alain Pierre Allo and Others, officials of the Commission of the European Communities, represented by Jean-Noël Louis, of the Brussels Bar, with an address for service in Luxembourg at the Chambers of Nicolas Decker, 16 Avenue Marie-Thérèse, against Commission of the European Communities (Agent: Dimitrios Gouloussis, assisted by Claude Verbraeken, of the Brussels Bar) — application for a declaration in the same terms as that sought in Case 174/83 <sup>(?)</sup> — the Court, composed of T. Koopmans, President of Chamber, for the President, K. Bahlmann and R. Joliet (Presidents of Chambers), G. Bosco, C. Kakouris, T. F. O'Higgins and F. Schockweiler, Judges; G. F. Mancini, Advocate-General; J. A. Pompe, Deputy Registrar, gave a judgment on 30 September 1986, the operative part of which is as follows:

1. *The application is dismissed;*
2. *The parties are to bear their own costs.*

<sup>(1)</sup> OJ No C 252, 20. 9. 1983.

<sup>(?)</sup> See p. 7 of this Official Journal.

#### JUDGMENT OF THE COURT

of 30 September 1986

in Case 233/83: P. Agostini and Others v. Commission of  
the European Communities <sup>(1)</sup>

(Officials — Interest on salary arrears)

(86/C 266/09)

(Language of the Case: French)

(Provisional translation; the definitive translation will be published in the Reports of Cases before the Court)

In Case 233/83: P. Agostini and Others, officials of the Commission of the European Communities, represented by Jean-Noël Louis, of the Brussels Bar, with an address for service in Luxembourg at the Chambers of Nicolas Decker, 16 Avenue Marie-Thérèse, against Commission of the European Communities (Agent: Dimitrios Gouloussis, assisted by Claude Verbraeken, of the Brussels Bar) — application for a declaration in the same terms as that sought in Case 174/83 <sup>(?)</sup> — the Court, composed of T. Koopmans, President of Chamber, for the President, K. Bahlmann and R. Joliet (Presidents of Chambers), G. Bosco, C. Kakouris, T. F. O'Higgins and F. Schockweiler, Judges; G. F. Mancini, Advocate-General; J. A. Pompe, Deputy Registrar, gave a judgment on 30 September 1986, the operative part of which is as follows:

1. *The application is dismissed;*
2. *The parties are to bear their own costs.*

<sup>(1)</sup> OJ No C 302, 9. 11. 1983.

<sup>(?)</sup> See p. 7 of this Official Journal.

#### JUDGMENT OF THE COURT

of 30 September 1986

in Case 247/83: J. P. Ambrosetti and Others v.  
Commission of the European Communities <sup>(1)</sup>

(Officials — Interest on salary arrears)

(86/C 266/10)

(Language of the Case: French)

(Provisional translation; the definitive translation will be published in the Reports of Cases before the Court)

In Case 247/83: J. P. Ambrosetti and Others, officials of the Commission of the European Communities, represented by Jean-Noël Louis, of the Brussels Bar,

<sup>(1)</sup> OJ No C 327, 1. 12. 1983.

with an address for service in Luxembourg at the Chambers of Nicolas Decker, 16 Avenue Marie-Thérèse, against Commission of the European Communities (Agent: Dimitrios Gouloussis, assisted by Claude Verbraeken, of the Brussels Bar) — application for a declaration in the same terms as that sought in Case 174/83 (\*) — the Court, composed of T. Koopmans, President of Chamber, for the President, K. Bahlmann and R. Joliet (Presidents of Chambers), G. Bosco, C. Kakouris, T. F. O'Higgins and F. Schockweiler, Judges; G. F. Mancini, Advocate-General; J. A. Pompe, Deputy Registrar, gave a judgment on 30 September 1986, the operative part of which is as follows:

1. *The application is dismissed;*
2. *The parties are to bear their own costs.*

(\*) See p. 7 of this Official Journal.

### JUDGMENT OF THE COURT

of 30 September 1986

in Case 264/83: René Delhez and Others v. Commission of the European Communities (\*)

(Officials — Interest on salary arrears)

(86/C 266/11)

(Language of the Case: French)

(Provisional translation; the definitive translation will be published in the Reports of Cases before the Court)

In Case 264/83, René Delhez and Others, officials of the Commission of the European Communities employed in Brussels, R. Besenthal and Others, officials of the Commission of the European Communities employed at Geel, M. Faes, a member of the temporary staff of the Commission of the European Communities employed at Geel, M. Beers and Others, officials of the Commission of the European Communities employed at Petten, R. Schnitzler, an official of the Commission of the European Communities employed in Luxembourg, H. C. Herold and Others, officials and members of the temporary staff of the Commission of the European Communities employed at Ispra, assisted and represented by Georges Vandersanden, of the Brussels Bar, with an address for service in Luxembourg at the Chambers of J. Biver, 2 rue Goethe, against Commission of the European Communities (Agent: Dimitrios Gouloussis, assisted by Claude Verbraeken, of the Brussels Bar) — application requesting the Court to:

Annul the salary slips for December 1982 in respect of salary arrears in as much as Council Regulation (ECSC, EEC, Euratom) No 3139/82 of 22 November 1982 under which those arrears were paid is illegal,

(\*) OJ No C 352, 28. 12. 1983.

In so far as is necessary, declare void the Commission's letter of 29 June 1983 expressly rejecting the applicants' complaints,

Award the applicants compensation for the loss of purchasing power and default interest in respect of each monthly financial supplement on the basis of the settlement of the arrears owed,

Order the defendant to pay the whole of the costs,

the Court, composed of T. Koopmans, President of Chamber, for the President, K. Bahlmann and R. Joliet (Presidents of Chambers), G. Bosco, C. Kakouris, T. F. O'Higgins and F. Schockweiler, Judges; G. F. Mancini, Advocate-General; J. A. Pompe, Deputy Registrar, gave a judgment on 30 September 1986, the operative part of which is as follows:

1. *The application is dismissed;*
2. *The parties are to bear their own costs.*

Action brought on 26 September 1986 by the Commission of the European Communities against the Federal Republic of Germany

(Case 249/86)

(86/C 266/12)

An action against the Federal Republic of Germany was brought before the Court of Justice of the European Communities on 26 September 1986 by the Commission of the European Communities, represented by Dr Jörn Pipkorn and Julian Currall, with an address for service in Luxembourg at the office of Georgios Kremlis, Jean Monnet Building, Kirchberg.

The applicant claims that the Court should:

1. Declare that the Federal Republic of Germany has failed to fulfil its obligations under Article 48 of the EEC Treaty and Article 10 (3) of Regulation (EEC) No 1612/68 (\*) of the Council of 15 October 1968 in as much as it has put into force and maintained provisions which lay down or permit, as a prerequisite for the extension of a residence permit for members of the family of migrant workers of the Community, the requirement that the family shall be living in decent housing conditions not only at the time when they install themselves with the migrant worker concerned in the territory of the Federal Republic of Germany but for the entire duration of the period of residence;
2. Order the Federal Republic of Germany to pay the costs.

(\*) OJ, Special Edition, 1968 (II), p. 475.

*Contentions and main arguments adduced in support*

The view of the Federal Government according to which the requirement laid down by Article 10 (3) of Regulation No 1612/68 (availability of decent housing for the family) must be satisfied throughout the period of residence is incorrect. As an exception to a fundamental right guaranteed by Community law, that provision must be construed narrowly. Terms such as 'install themselves' and 'admission' can scarcely be understood as referring to any point in time other than that of the first entry into the country of residence. The interpretation put forward by the Federal Government finds no support either in the preamble to Regulation No 1612/68 or in the *travaux préparatoires*. The insertion of paragraph (3) into the Regulation was prompted by reservations relating to

problems caused by new arrivals. Residence permits must be renewed 'automatically' save where exceptions are expressly laid down (Directives 68/360/EEC and 64/221/EEC). Inadequate housing does not number among those exceptions. Contrary to the opinion of the Federal Government, the time for renewal may not be treated as an occasion for seeking possible grounds for refusing a residence permit.

The Federal Government has failed to provide a satisfactory answer to the Commission's objection that the German 'EEC Residence' law has led to discrimination against migrant workers in certain cases. In particular, it has not shown that equivalent sanctions are applied in all the Länder of the Federal Republic against German nationals if they are not living in decent housing conditions.

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## III

*(Notices)*

## COUNCIL

**Notice concerning the organization of open competitions**

(86/C 266/13)

The General Secretariat of the Council is organizing the following open competition:

Council/LA/291: revisers/principal translators of Portuguese mother tongue (\*)

The deadline for submitting applications is 8 December 1986.

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(\*) OJ No C 266, 22. 10. 1986 (Portuguese edition).

**CORRIGENDA**

**Corrigendum to the list of the natural mineral waters recognized by the Grand Duchy of Luxembourg**

*(Official Journal of the European Communities No C 305 of 16 November 1984)*

(86/C 266/14)

Page 3, column headed 'Place of production':

*for:* 'SA Soutirage luxembourgeois',

*read:* 'Rosport'.

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