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(Information)

COURT OF JUSTICE

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JUDGMENT OF THE COURT

of 9 February 1994

in Case C-154/93 (reference for a preliminary ruling from the French Conseil d'État): Abdullah Tawil-Albertini v. Ministre des Affaires Sociales [1]

(Establishment and provision of services — Dental practitioner — Recognition of evidence of formal qualifications)

(94/C 90/01)

(Language of the case: French)

(Provisional translation; the definitive translation will be published in the European Court Reports)

In Case C-154/93: reference to the court pursuant to Article 177 of the EEC Treaty from the French Conseil d'État (Council of State) for a preliminary ruling in the proceedings pending before that court between Abdullah Tawil-Albertini and Ministre des Affaires Sociales — on the interpretation of Article 7 of Council Directive 78/686/EEC of 25 July 1978 concerning the mutual recognition of diplomas, certificates and other evidence of formal qualifications of practitioners of dentistry, including measures to facilitate the effective exercise of the right of establishment and freedom to provide services [2] — the Court, composed of: O. Due, President, M. Díez de Velasco and D. A. O. Edward (Rapporteur), (Presidents of Chambers), C. N. Kakouris, R. Joliet, F. A. Schockweiler and M. Zuleeg, Judges; M. Darmon, Advocate-General; H. A. Rühl, Principal Administrator, for the Registrar, gave a judgment on 9 February 1994, the operative part of which is as follows:

Article 7 of Directive 78/686/EEC of 25 July 1978 concerning the mutual recognition of diplomas, certificates and other evidence of formal qualifications of practitioners of dentistry, including measures to facilitate the effective exercise of the right of establishment and freedom to provide services, does not require Member States to recognize diplomas, certificates and other evidence of formal qualifications which do not testify to dental training acquired in one of the Member States of the Community.

[1] OJ No C 142, 20. 5. 1993.
[2] OJ No L 233, 24. 8. 1978, p. 1.

JUDGMENT OF THE COURT

of 23 February 1994

in Case C-419/92 (reference for a preliminary ruling made by the Tribunale amministrativo regionale per la Sardegna): Ingetraut Scholz v. Opera Universitaria di Cagliari and Cinzia Porcedda [1]

(Free movement of workers — Competition for a post in the public service — Practical experience acquired in another Member State)

(94/C 90/02)

(Language of the case: Italian)

(Provisional translation; the definitive translation will be published in the European Court Reports)

In Case C-419/92: reference to the Court pursuant to Article 177 of the EEC Treaty by the Tribunale amministrativo regionale per la Sardegna (Regional Administrative Court for Sardinia, Italy) for a preliminary ruling in the proceedings pending before that court between Ingetraut Scholz and Opera Universitaria di Cagliari, Cinzia Porcedda — on the interpretation of Articles 7 and 48 of the EEC Treaty and Articles 1 and 3 of Council Regulation (EEC) No 1612/68 of 15 October 1968 on freedom of movement for workers within the Community [2] — the Court, composed of O. Due, President, G. F. Mancini, J. C. Moitinho de Almeida and M. Díez de Velasco (Rapporteur), (Presidents of Chambers), C. N. Kakouris, F. A. Schockweiler, M. Zuleeg, P. J. G. Kapteyn and J. L. Murray, Judges; F. G. Jacobs, Advocate-General; D. Louterman-Hubeau, Principal Administrator, for the Registrar, gave a judgment on 23 February 1994, the operative part of which is as follows:

Article 48 of the EEC Treaty must be interpreted as meaning that, where a public body of a Member State in recruiting staff for posts which do not fall within the scope of Article 48 (4) of the EEC Treaty, provides for account to be taken of candidates' previous employment in the public service, that body may not, in relation to Community nationals, make a distinction according to whether such employment was in the public service of that particular State or in the public service of another Member State.

(1) OJ No C 31, 4. 2. 1994.
(2) OJ No L 257, 19. 10. 1968, p. 2.

JUDGMENT OF THE COURT

of 23 February 1994

in Case C-289/93: Commission of the European Communities v. Italian Republic (1)

(Failure of a Member State to fulfil its obligations — Failure to transpose a directive — Road transport)

(94/C 90/03)

(Language of the case: Italian)

(Provisional translation; the definitive translation will be published in the European Court Reports)

In Case C-289/93: Commission of the European Communities (Agent: Vittorio di Bucci) v. Italian Republic (Agent: Luigi Ferrari Bravo, assisted by Oscar Fiumara, Avvocato dello Stato) — application for a declaration that, by failing to adopt within the prescribed period the laws, regulations and administrative provisions necessary to comply with Council Directive 88/599/EEC of 23 November 1988 on standard checking procedures for the implementation of Regulation (EEC) No 3820/85 on the harmonization of certain social legislation relating to road transport and Regulation (EEC) No 3821/85 on recording equipment in road transport (2) and/or by failing to communicate them to the Commission in accordance with Article 7 of the said Directive, the Italian Republic has failed to fulfil its obligations under the EEC Treaty — the Court, composed of: G. F. Mancini, President of Chambers, acting as President, J. C. Moitinho de Almeida and D. A. O. Edward (Rapporteur), (Presidents of Chambers), R. Joliet, F. A. Schockweiler, G. C. Rodríguez Iglesias, F. Grévisse, M. Zuleeg and J. L. Murray, Judges, Advocate-General: C. O. Lenz, Registrar: J.-G. Giraud, gave a judgment on 23 February 1994, the operative part of which is as follows:

1. *by not adopting within the prescribed period the laws, regulations and administrative provisions necessary to comply with Council Directive 88/599/EEC of 23 November 1988 on standard checking procedures for the implementation of Regulation (EEC) No 3820/85 on the harmonization of certain social legislation relating to road transport and Regulation (EEC) No 3821/85 on recording equipment in road transport, the Italian Republic has failed to fulfil its obligations under the EEC Treaty;*

2. *the Italian Republic is ordered to pay the costs.*

(1) OJ No C 198, 22. 7. 1993.
(2) OJ No L 325, 29. 11. 1988, p. 55.

JUDGMENT OF THE COURT

of 23 February 1994

in Case C-336/93: Commission of the European Communities v. Kingdom of Belgium (1)

(Failure of a Member State to fulfil its obligations — Failure to transpose a directive — Road transport)

(94/C 90/04)

(Language of the case: French)

(Provisional translation; the definitive translation will be published in the European Court Reports)

In Case C-336/93: Commission of the European Communities (Agent: Xavier Lewis) v. Kingdom of Belgium (Agent: Jan Devadder) — application for a declaration that, by failing to bring into force within the prescribed period the laws, regulations and administrative provisions necessary to comply with Council Directive 88/599/EEC of 23 November 1988 on standard checking procedures for the implementation of Regulation (EEC) No 3820/85 on the harmonization of certain social legislation relating to road transport and Regulation (EEC) No 3821/85 on recording equipment in road transport (2) and/or by failing to communicate them to the Commission, the Kingdom of Belgium has failed to fulfil its obligations under Article 7 of the said Directive and Articles 5 and 189 of the EEC Treaty — the Court, composed of: G. F. Mancini, President of Chambers, acting as President, J. C. Moitinho de Almeida and D. A. O. Edward (Rapporteur), (Presidents of Chambers), R. Joliet, F. A. Schockweiler, G. C. Rodríguez Iglesias, F. Grévisse, M. Zuleeg and J. L. Murray, Judges, Advocate-General: C. O. Lenz, Registrar: J.-G. Giraud, gave a judgment on 23 February 1994, the operative part of which is as follows:

1. *by not bringing into force within the prescribed period the laws, regulations and administrative provisions necessary to comply with Council Directive 88/599/EEC of 23 November 1988 on standard checking procedures for the implementation of Regulation (EEC) No 3820/85 on the harmonization of*

certain social legislation relating to road transport and Regulation (EEC) No 3821/85 on recording equipment in road transport, the Kingdom of Belgium has failed to fulfil its obligations under the EEC Treaty;

2. *the Kingdom of Belgium is ordered to pay the costs.*

(1) OJ No C 209, 3. 8. 1993.
(2) OJ No L 325, 29. 11. 1988, p. 55.

JUDGMENT OF THE COURT

(Fifth Chamber)

of 24 February 1994

in Case C-99/92 (reference for a preliminary ruling from the Consiglio di Stato): Terni SpA and Italsider SpA v. Cassa conguaglio per il settore elettrico (1)

(State aid — Interpretation of Decision No 83/396/ECSC — Determination of the beneficiaries of aid — Validity of Decision No 83/396/ECSC — Principle of equal treatment of public and private undertakings)

(94/C 90/05)

(Language of the case: Italian)

(Provisional translation; the definitive translation will be published in the European Court Reports)

In Case C-99/92: reference to the Court pursuant to Article 41 of the ECSC Treaty by the Consiglio di Stato (Italy), for a preliminary ruling in the proceedings pending before that court between Terni SpA, Italsider SpA and Cassa conguaglio per il settore elettrico on the interpretation and validity of Commission Decision No 83/396/ECSC of 29 June 1983 concerning the aids that the Italian Government proposes to grant to certain steel undertakings (2), the Court (Fifth Chamber), composed of J. C. Moitinho de Almeida (President of the Chamber), D. A. O. Edward, R. Joliet (Rapporteur), G. C. Rodríguez Iglesias and F. Grévisse, Judges; C. Gulmann, Advocate-General; L. Hewlett, Administrator, for the Registrar, gave a judgment on 24 February 1994, the operative part of which is as follows:

1. *Article 1 of Commission Decision No 83/396/ECSC of 29 June 1983 concerning the aids that the Italian Government proposes to grant to certain steel undertakings does not authorize the grant of aid consisting in the reimbursement of increases in the electricity surcharge to Terni and Italsider;*

2. *consideration of the second question has disclosed no factor of such a kind as to affect the validity of Commission Decision No 83/396/ECSC.*

(1) OJ No C 138, 28. 5. 1992.
(2) OJ No L 227, 19. 8. 1983, p. 24.

JUDGMENT OF THE COURT

(Fifth Chamber)

of 24 February 1994

in Case C-100/92 (reference for a preliminary ruling from the Consiglio di Stato): Fonderia A. SpA v. Cassa conguaglio per il settore elettrico (1)

(State aid — Interpretation of Decision No 83/396/ECSC — Determination of the period of application of an aid)

(94/C 90/06)

(Language of the case: Italian)

(Provisional translation; the definitive translation will be published in the European Court Reports)

In Case C-100/92: reference to the Court pursuant to Article 41 of the EEC Treaty by the Consiglio di Stato (Italy), for a preliminary ruling in the proceedings pending before that court between Fonderia A. SpA and Cassa conguaglio per il settore elettrico on the interpretation of Commission Decision No 83/396/ECSC of 29 June 1983 concerning the aids that the Italian Government proposes to grant to certain steel undertakings (2), the Court (Fifth Chamber), composed of J. C. Moitinho de Almeida (President of the Chamber), D. A. O. Edward, R. Joliet (Rapporteur), G. C. Rodríguez Iglesias and F. Grévisse, Judges; C. Gulmann, Advocate-General; L. Hewlett, Administrator, for the Registrar, gave a judgment on 24 February 1994, the operative part of which is as follows:

Article 1 of Commission Decision No 83/396/ECSC of 29 June 1983 concerning the aids that the Italian Government proposes to grant to certain steel undertakings does not preclude application of Article 1 of Decree-Law No 495 of 4 September 1981 on urgent measures to assist the steel industry and on pollution abatement plants, as amended by Conversion Law No 617 of 4 November 1981, in so far as it provides for the reimbursement of increases in the electricity surcharge on electricity consumed by steel undertakings between 1 January and 30 June 1983.

(1) OJ No C 138, 28. 5. 1992.
(2) OJ No L 227, 19. 8. 1983, p. 24.

JUDGMENT OF THE COURT

(Sixth Chamber)

of 24 February 1994

in Case C-343/92 (reference for a preliminary ruling from the Raad van Beroep, 's-Hertogenbosch): M. A. De Weerd (née Roks) and Others v. Bestuur van de Bedrijfsvereniging voor de Gezondheid, Geestelijke en Maatschappelijke Belangen and Others [1]

(Equal treatment for men and women — Social security — Directive 79/7/EEC — Effects of late transposition on rights acquired under the Directive)

(94/C 90/07)

(Language of the case: Dutch)

(Provisional translation; the definitive translation will be published in the European Court Reports)

In Case C-343/92: reference to the Court pursuant to Article 177 of the EEC Treaty by the Raad van Beroep (Social Security Court), 's-Hertogenbosch (Netherlands), for a preliminary ruling in the proceedings pending before that court between M. A. De Weerd (née Roks), F. M. Hulshoff, J. Steevens, K. Tjallinks, A. P. van Kampen, J. T. H. J. Vrolijks (née van Es) and the Bestuur van de Bedrijfsvereniging voor de Gezondheid, Geestelijke en Maatschappelijke Belangen, Bestuur van de Bedrijfsvereniging voor Detailhandel, Ambachten en Huisvrouwen, Bestuur van de Nieuwe Algemene Bedrijfsvereniging, Bestuur van de Bedrijfsvereniging voor Hotel-, Restaurant-, Café-, Pension- en Aanverwante Bedrijven — on the interpretation of Council Directive 79/7/EEC of 19 December 1978 on the progressive implementation of the principle of equal treatment for men and women in matters of social security [2] — the Court (Sixth Chamber), composed of: G. Mancini, President of the Chamber, M. Díez de Velasco, C. N. Kakouris, F. A. Schockweiler (Rapporteur) and P. J. G. Kapteyn, Judges; M. Darmon, Advocate-General; H. A. Rühl, Principal Administrator, for the Registrar, gave a judgment on 24 February 1994, the operative part of which is as follows:

1. *Community law precludes the application of national legislation which, by making entitlement to benefits for incapacity for work dependent on a condition not previously applied to men, deprives married women of the rights conferred on them by virtue of the direct effect of Article 4 (1) of Directive 79/7/EEC of the Council of 19 December 1978 on the progressive implementation of the principle of equal treatment between men and women in matters of social security;*

2. *Community law does not preclude the introduction of national legislation which, by making continuance of entitlement to benefits for incapacity for work subject to a condition applicable henceforth to men and women alike, has the effect of withdrawing from women in future rights which they derive from the direct effect of Article 4 (1) of Directive 79/7/EEC;*

3. *Article 4 (1) of Directive 79/7/EEC precludes the application of national legislation which makes the grant of benefits for incapacity for work subject to the condition of having received some income during the year preceding the commencement of the incapacity, a condition which, although it does not distinguish on grounds of sex, affects far more women than men, even if the adoption of that national legislation is justified on budgetary grounds;*

4. *only persons falling within the scope* ratione personae *of Directive 79/7/EEC as defined in Article 2 and those affected by discrimination in a national provision through another person who himself falls within the scope of the Directive may, if that national legislation is incompatible with Article 4 (1) of the Directive, rely on that Article before the national courts in order to prevent the application of the national legislation.*

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[1] OJ No C 246, 24. 9. 1992.

[2] OJ No L 6, 10. 1. 1979, p. 24.

ORDER OF THE COURT

(Fifth Chamber)

of 20 January 1994

in Joined Cases C-89/85, C-104/85, C-114/85, C-116/85, C-117/85 and C-125/85 to C-129/85: A. Ahlström Osakeyhtiö and Others v. Commission of the European Communities [1]

(Costs — Rectification of the judgment)

(94/C 90/08)

(Language of the case: German and English)

(Provisional translation; the definitive translation will be published in the European Court Reports)

In Joined Cases C-89/85, 104/85, 114/85, 116/85, 117/85 and 125/85 to 129/85: A. Ahlström Osakeyhtiö and Others v. Commission of the European Communities — application for a declaration that the Commission Decision of 19 December 1984 relating to a proceeding pursuant to Article 85 of the EEC Treaty (IV/29.725 — Wood pulp) [2] is void — the Court (Fifth Chamber), composed of J. C. Moitinho de Almeida, President of the Chamber, R. Joliet (Rapporteur), G. C. Rodríguez Iglesias, F. Grévisse and

Zuleeg, Judges; M. Darmon, Advocate-General; J.-G. Giraud, Registrar, made an order on 20 January 1994, the operative part of which is as follows:

1. *paragraph 204 of the grounds and paragraph 10 of the operative part of the judgment shall be replaced by the following:*

   'As regards the other costs, they must be apportioned as follows:

   — *in Case C-89/85, the Commission is ordered to pay the costs of the Finnish applicants, except for those of Finncell; Finncell is to bear its own costs and to pay those of the Commission relating to its application,*

   — *in Case C-104/85 (Bowater Inc.), the Commission is ordered to pay the costs,*

   — *in Case C-114/85, the Commission is ordered to pay the costs of KEA and to bear its own costs relating to KEA's application; The Chesapeake Corporation, Crown Zellerbach Corporation, Federal Paper Board Co. Inc., Georgia-Pacific Corporation, Scott Paper Co. and Weyerhaeuser Co. are each to bear one-third of their own costs and to pay one-third of the Commission's costs relating to their application; the Commission is to pay two-thirds of the costs of those six undertakings and to bear two-thirds of its own costs relating to their application,*

   — *in Case C-116/85, St Anne is to bear one-third of its own costs and to pay one-third of the Commission's costs relating to its application; the Commission is to pay two-thirds of St Anne's costs and to bear two-thirds of its own costs relating to that application,*

   — *in Case C-117/85, IPS is to bear one-third of its own costs and to pay one-third of the Commission's costs relating to its application; the Commission is to pay two-thirds of the costs of IPS and to bear two-thirds of its own costs relating to that application,*

   — *in Case C-125/85, Westar is to bear one-third of its own costs and to pay one-third of the Commission's costs relating to its application; the Commission is to pay two-thirds of Westar's costs and to bear two-thirds of its own costs relating to that application,*

   — *in Case C-126/85 (Weldwood), the Commission is ordered to pay the costs,*

   — *in Case C-127/85, Mac/Millan Bloedel Ltd is to bear one-third of its own costs and to pay one-third of the Commission's costs relating to its application; the Commission is to pay two-thirds of the costs of MacMillan Bloedel Ltd and to bear two-thirds of its own costs relating to that application,*

   — *in Case C-128/85, Canfor is to bear one-third of its own costs and to pay one-third of the Commission's costs relating to its application; the Commission is to pay two-thirds of Canfor's costs and to bear two-thirds of its own costs relating to that application,*

   — *in Case C-129/85 (British Columbia), the Commission is ordered to pay the costs.';*

2. *the original of this order shall be annexed to the original of the rectified judgment and a note of the order shall be made in the margin of the original of the judgment.*

(1) OJ No C 126, 7. 5. 1993.
(2) OJ No L 85, 26. 3. 1985, p. 1.

ORDER OF THE COURT

of 24 January 1994

in Case C-275/93 P: Michael Boessen v. Economic and Social Committee of the European Communities (1)

(Official — Admissibility — Period for lodging an appeal — Invalidity pension — Calculation)

(94/C 90/09)

(Language of the case: Dutch)

(Provisional translation; the definitive translation will be published in the European Court Reports)

In Case C-275/93 P: Michael Boessen, a former official of the Economic and Social Committee, residing at Lanaken (Belgium), represented by Ch. Paulussen, of the Maastricht Bar, with an address for service in Luxembourg at the Chambers of M. Loesch, 8 rue Zithe — appeal against the judgment of the Court of First Instance of the European Communities of 11 March 1993 in Case T-87/91 Boessen v. ESC (1993) ECR II-235, seeking the annulment of the decision by the Economic and Social Committee of 5 September 1991 rejecting his complaint against the refusal to grant him an invalidity pension amounting to the equivalent of 135 % of the minimum subsistence figure, the other party to the proceedings being the Economic and Social Committee of the European Communities (Agent: M. Bermejo Garde, assisted by D. Lagasse and G. Tassin, of the Brussels Bar) — the Court, composed of: O. Due, President, G. F. Mancini, J. C. Moitinho de Almeida, M. Díez de Velasco and D. A. O. Edward, Presidents of Chambers, R. Joliet, F. A. Schockweiler, G. C. Rodríguez Iglesias, F. Grévisse (Rapporteur), M. Zuleeg and P. J. G. Kapteyn, Judges; G. Tesauro, Advocate-General; J.-G. Giraud, Registrar, made an order on 24 January 1994, the operative part of which is as follows:

1. *Mr Boessen's appeal is dismissed;*

2. *Mr Boessen is ordered to pay the costs.*

(1) OJ No C 172, 23. 6. 1993.

Action brought on 24 January 1994 by the Commission of the European Communities against the Council of the European Union

(Case C-25/94)

(94/C 90/10)

An action against the Council of the European Union was brought before the Court of Justice of the European Communities on 24 January 1994 by the Commission of the European Communities, represented by Jörn Sack, acting as Agent, with an address for service in Luxembourg at the office of Georgios Kremlis, Wagner Centre, Kirchberg.

The applicant claims that the Court should:

— annul the Council's decision of 22 November 1993 confirming the decision made previously by the Committee of Permanent Representatives to give voting rights within the Council and the Conference of the Food and Agriculture Organization of the United Nations to the Member States on a draft agreement to promote compliance by fishing vessels on the high seas with international conservation and management measures,

— order the Council to bear the costs.

Pleas in law and main arguments adduced in support:

The draft agreement as submitted to the competent bodies of the FAO fell exclusively (or at least essentially) within the competence of the Community. More particularly, the key provisions in Articles III and IV of the agreement (setting up a system of authorization for fishing on the high seas based on compliance with international conservation and management measures and, secondarily, the maintenance of records and the imposition of sanctions) are not matters which are proper to the Member States. As regards penal sanctions, the proposed provisions do not go beyond imposing a general requirement on the Member States to ensure compliance with Community law, having recourse to the criminal law where appropriate; even this part does not therefore require any involvement in the agreement on the part of the Member States.

Even though the Council may have wished, by its declaration on jurisdiction and voting rights, to make provision for all eventualities in the final phase of negotiations and more particularly for an extension of the proposed measures, the rules of law did not permit it to deprive the Community of the right to vote in a field in which it has exclusive competence and thus reduce its scope for intervening in, and negotiating on, the matter, having regard to the rules of the FAO, of which the Community has become a full member.

Action brought on 31 January 1994 by the Federal Republic of Germany against the Commission of the European Communities

(Case C-41/94)

(94/C 90/11)

An action against the Commission of the European Communities was brought before the Court of Justice of the European Communities on 31 January 1994 by the Federal Republic of Germany, represented by Ernst Röder, Minsterialrat, and Bernd Kloke, Regierungsrat, Federal Ministry of the Economy, Bonn, Germany.

The applicant claims that the Court should:

1. annul Commission Decision 93/659/EC of 25 November 1993 on the clearance of the accounts presented by the Member States in respect of the expenditure for 1990 of the European Agricultural Guidance and Guarantee Fund (EAGGF), Guarantee Section, in so far as it does not recognize as chargeable to the EAGGF a sum of DM 7 518 141 which was paid on the basis of Article 4a of Regulation (EEC) No 804/68 [1];

2. order the defendant to pay the costs.

Pleas in law and main arguments adduced in support:

Most of the deficiencies in the implementation procedure in Germany which the Commission complains of did not in fact exist. In particular, the Commission did not take sufficient account of the characteristics of the market in Germany and did not take account of the fact that as a result of the centralized administrative system the inspectors have good local knowledge and a specialist qualification acquired by means of agricultural advisory activities.

In so far as the Commission puts forward more extensive requirements as to the German implementation procedure (for example, a particular form of earmarking or the keeping of a stock register), these have no legal basis in provisions of Community law.

Should the Court of Justice nevertheless regard the system of payment of premiums, as used in Germany, as deficient, those deficiencies are inherent in the Community rules themselves.

Finally, the Commission infringed the principle of loyal cooperation between Community institutions and Member States, since despite being informed at an early stage of the essential features of the German implementation procedure, it did not give the Federal Republic of Germany an opportunity in good time to remove the deficiencies which it considered to exist.

[1] OJ No L 148, 27. 6. 1968, p. 24.

Action brought on 1 February 1994 by Heidemij Advies BV against the European Parliament.

(Case C-42/94)

(94/C 90/12)

An action against the European Parliament was brought before the Court of Justice of the European Communities on 1 February by Heidemij Advies BV, represented by Vera Van Houtte, of the Brussels Bar, with an address for service in Luxembourg at the Chambers of Marc Loesch, 11 rue Goethe.

The applicant claims that the Court should:

1. order the European Parliament to pay to it, as agreed, damages for termination of contract, the principal sum of ECU 797 150 together with interest at the contractual rate of 8 % a year from 15 September 1993;

2. order the European Parliament to pay the entire costs.

Pleas in law and main arguments adduced in support:

The Court has jurisdiction pursuant to an arbitration clause (Article 42 of the ECSC Treaty, Articles 181 of the EEC Treaty and 153 of the EAEC Treaty).

Pursuant to Article 1794 of the Code Civil Belge (Belgian Civil Code) applicable by virtue of an agreement concluded between the parties for a pilot study, advice and assistance in connection with extension works of the European Parliament in Brussels the applicant seeks compensation for the unilateral premature termination of its contract. It calculates the lost profit on the basis of the Netherlands code of professional conduct for consultants made applicable by the abovementioned agreement.

Reference for a preliminary ruling made by order of the Divisional Court of the Queen's Bench Division, dated 2 December 1993, in the case of The Queen against the Minister of Agriculture, Fisheries & Food, *ex parte:* National Federation of Fishermen's Organizations and Others

(Case C-44/94)

(94/C 90/13)

The Court of Justice of the European Communities has received a reference for a preliminary ruling made by order of the Divisional Court of the Queen's Bench Division, dated 2 December 1993, in the proceedings between The Queen and the Minister of Agriculture, Fisheries & Food, *ex parte:* National Federation of Fishermen's Organizations and Others, which was lodged at the Court Registry on 4 February 1994, on the following questions:

1. does Commission Decision 92/593/EEC [1]:

   1. enable and/or authorize the United Kingdom to introduce restrictions on days at sea that all British fishing vessels over 10 metres can spend at sea, such as those calculated in accordance with the Sea Fish Licensing (Time at Sea) (Principles) Order 1993 which, as a general principle, will limit the days that such vessels can spend at sea to the days spent in 1991;

   2. exclude the possibility of using technical conservation measures in order to achieve that part of the overall target (i.e. 45 %) which is to be dealt with by measures other than capacity reductions;

2. is the answer to question 1 affected by the fact that the United Kingdom did not reduce the capacity of the United Kingdom fishing fleet in accordance with the figures set out in the Annex to Commission Decision 88/141/EEC [2], as amended by the Commission Decision of 1 August 1991;

3. in any event are national measures of the kind referred to in question 1 contrary to the EC Treaty (in particular Articles 6, 34, 39 and 40 (3) thereof) and the Regulations establishing the common fisheries policy (in particular Council Regulations (EEC) No 3760/92 [3], (EEC) No 3759/92 [4]) and the general principles of Community law (in particular the right to a peaceful enjoyment of property, the right to pursue a trade or professional activity, the right to equal treatment and the principle of proportionality);

4. whether the answers to any of the above questions are affected by:

   1. the nature of the stock principally fished for by any such vessels, and in particular whether such stock is subject to total allowable catches or not;

   2. the extent to which such restrictions will affect the normal fishing and other operations of individual fishermen and the market for fish caught;

   3. any derogations the Minister may in future make for particular sectors of the United Kingdom fishing fleet?

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[1] Commission Decision of 21 December 1992 on a multiannual guidance programme for the fishing fleet of the United Kingdom for the period 1993 to 1996 pursuant to Council Regulation (EEC) No 4028/86 (OJ No L 401, 31. 12. 1992, p. 33).

[2] Commission Decision of 11 December 1987 on the multinannual guidance programme for the fishing fleet (1987 to 1991) forwarded by the United Kingdom pursuant to Regulation (EEC) No 4028/86 (OJ No L 67, 12. 3. 1988, p. 22).

[3] Council Regulation (EEC) No 3760/92 of 20 December 1992 establishing a Community system for fisheries and aquaculture (OJ No L 389, 31. 12. 1992, p. 1).

(4) Council Regulation (EEC) No 3759/92 of 17 December 1992 on the common organization of the market in fishery and aquaculture products (OJ No L 388, 31. 12. 1992, p. 1).

Reference for a preliminary ruling by the Tribunal Superior de Justicia de Andalucía (sede de Sevilla), Sala de lo Contencioso-Administrativo by order of that court of 16 December 1993 in the case of Cámara de Comercio, Industria y Navegación de Ceuta against the Ayuntamiento de Ceuta

(Case C-45/94)

(94/C 90/14)

Reference has been made to the Court of Justice of the European Communities by order of the Tribunal Superior de Justicia de Andalucía (sede de Sevilla), Sala de lo Contencioso-Administrativo (High Court of Justice, Andalusia, sitting in Seville — Chamber for Contentious Administrative Proceedings) of 16 December 1993, which was received at the Court Registry on 4 February 1994, for a preliminary ruling in the case of Cámara de Comercio, Industria y Navegación (Chamber of Commerce, Industry and Shipping), Ceuta against the Ayuntamiento de Ceuta (Municipality of Ceuta) on the following question:

Does Article 25 (2) of the Act concerning the conditions of accession of the Kingdom of Spain to the European Communities and Protocol 2 thereto, in conjunction with the provisions of the EEC and ECSC Treaties concerning the free movement of goods, allow the existence after 1991 of a charge such as the one governed by Spanish Law 8/1991 of 25 March 1991 approving the arbitrio sobre la producción y la importación en las ciudades de Ceuta y Melilla (charge on production in and imports into the cities of Cueta and Melilla) which is arranged in such a way as to result in 'the almost total absence of any additional tax burden on internal operations' while at the same time maintaining an actual charge on imports from the customs territory of the Community?

Reference for a preliminary ruling by the Tribunal de Police by judgment of that court of 12 March 1993 in the case of Ministère Public against Michèle Voisine, née Delaunay; party claiming damages under civil law: Institut national des appellations d'origine

(Case C-46/94)

(94/C 90/15)

Reference has been made to the Court of Justice of the European Communities by judgment of the Tribunal de Police (local criminal court) Bordeaux of 12 March 1993, which was received at the Court Registry on 4 February 1994, for a preliminary ruling in the case of Ministère Public against Michèle Voisine, née Delaunay; party claiming damages under civil law: Institut national des appellations d'origine, on the following question:

Does the definition of 'labelling' in Article 38 of Council Regulation (EEC) No 2392/89 (1) prohibit any decoration or advertising on the bottle which is unconnected with the wine itself?

(1) OJ No L 232, 9. 8. 1989, p. 13.

Action brought on 4 February 1994 by the United Kingdom against the Commission of the European Communities

(Case C-47/94)

(94/C 90/16)

An action against the Commission of the European Communities was brought before the Court of Justice of the European Communities on 4 February 1994 by the United Kingdom, represented by John E. Collins, acting as agent, assisted by Stephen Richards, Barrister, with an address for service in Luxembourg at the British Embassy, 14 boulevard Roosevelt.

The applicant requests the Court to:

— declare void Commission Decision 93/659/EC of 25 November 1993 on the clearance of the accounts presented by the Member States in respect of the expenditure for 1990 of the EAGGF, Guarantee Section (1), in so far as it allows to Italy, Spain and Greece amounts equivalent to the additional levy on the quantities set out in paragraph 2.15 of the application (2),

— order the Commission to pay the costs of the application.

Contentions and main arguments adduced in support:

The United Kingdom considers that the contested Decision amounts to a usurpation by the Commission of the functions of the Council. The Commission has used its powers in relation to the clearance of accounts in order to achieve a result equivalent to an increase in the three Member States' guaranteed total quantities for 1989/90 whereas the responsibility for determining those Member States' total quantities lies with the Council. The Commission, when discharging its functions in relation to the clearance of accounts, must apply the rules laid down by the Council and does not enjoy as wide a discretion as it has purported to exercise in this case.

Further or alternatively, in breach of Article 190 of the EEC Treaty, the Commission has failed to give adequate reasons for such a major departure from the rules governing payment of the additional levy. In a matter of this kind it was

incumbent on the Commission to give a clear and detailed explanation for its action.

(1) OJ No L 301, 8. 12. 1993, p. 13.

(2) — Italy: 900 000 tonnes (being the full amount of the special increase in Italy's guaranteed total quantity in respect of deliveries to dairies for 1993/94),
— Spain: 500 000 tonnes (being the full amount of the special increase in Spain's guaranteed total quantity in respect of deliveries to dairies for 1993/94),
— Greece: 9 201 tonnes (being part of the special increase in Greece's guaranteed total quantity in respect of deliveries to dairies for 1993/94, and sufficient to offset Greece's total excess deliveries to dairies in 1990/90).

Reference for a preliminary ruling by the Sø- og Handelsret, Copenhagen, by order of that court of 2 February 1994 in the case of Ledernes Hovedorganisation, acting for Ole Rygaard, v. Dansk Arbejdsgiverforening, acting for Strø Mølle Akustik A/S

(Case C-48/94)

(94/C 90/17)

Reference has been made to the Court of Justice of the European Communities by an order of the Sø- og Handelsret (Maritime and Commercial Court), which was received at the Court Registry on 7 February 1994, for a preliminary ruling in the case of Ledernes Hovedorganisation, acting for Ole Rygaard, v. Dansk Arbejdsgiverforening, acting for Strø Mølle Akustik A/S, on the following questions:

Is Council Directive 77/187/EEC (1) applicable when contractor B, pursuant to an agreement with contractor A, continues work on part of a contract begun by contractor A, and

1. an agreement is entered into between contractor A and contractor B that some of contractor A's workers will continue on the work for contractor B and contractor B takes over material on the building site in order to complete the contract; and

2. after the contract is taken over contractor A and contractor B work together for a time on the building site?

Does it make any difference if the agreement to complete the contract is entered into between the builder and contractor B with contractor A's concurrence?

(1) On the approximation of the laws of the Member States relating to the safeguarding of employees' rights in the event of transfers of undertakings, businesses or parts of businesses (OJ No L 61, 5. 3. 1979, p. 26).

Action brought on 7 February 1994 by Ireland against the Commission of the European Communities

(Case C-49/94)

(94/C 90/18)

An action against the Commission of the European Communities was brought before the Court of Justice of the European Communities on 7 February 1994 by Ireland, represented by Michael A. Buckley, Chief State solicitor, acting as agent, with an address for service in Luxembourg at the Irish Embassy, 28 route d'Arlon.

The applicant requests that the Court should:

(i) declare pursuant to Articles 173 and 174 of the Treaty establishing the European Community that Commission Decision 93/659/EC (1) of 25 November 1993 (notified to Ireland on 26 November 1993) on the clearance of accounts presented by the Member States in respect of expenditure for 1990 for the European Agricultural Guidance and Guarantee Fund (EAGGF) Guarantee Section, is void in so far as it disallowed an amount of £ Irl 6 343 429,00 in respect of export refunds paid in the beef and veal sector in Ireland;

(ii) make such further or other order as may be necessary and appropriate for the purposes of the relief which Ireland seeks in these proceedings;

(iii) order the Commission of the European Communities to pay the costs of these proceedings.

Pleas in law and main arguments adduced in support:

The legal grounds relied upon by Ireland to support their contest of the Commission's decision are as follows:

(a) the requirements of Article 30 of Regulation (EEC) No 3665/87 (2) were complied with;

(b) if it can be argued that in some way there has been a failure on the part of Ireland in relation to the requirements of Article 30, such failure does not constitute an event which brings Ireland within the class of persons who have effected the payment of advance export refunds otherwise than in accordance with Community rules as that term is used in Council Regulation (EEC) No 729/70 (3)of 21 April 1970 on the financing of the common agricultural policy. The complaints of the Commission relate to subsidiary administrative formalities rather than essential administrative formalities;

(c) if Ireland has breached essential administrative formalities in respect of the application of Regulation (EEC) No 3665/87, the disallowance contended for by the Commission is excessive and disproportionate;

(d) the interpretation of the Regulation contended for by the Commission for the purposes of supporting the disallowance made is in breach of the principles of legitimate expectations and legal certainty.

(1) OJ No L 301, 8. 12. 1993, p. 13.

(2) Commission Regulation (EEC) No 3665/87 of 27 November 1987 laying down common detailed rules for the application of the system of export refunds on agricultural products (OJ No L 351, 14. 12. 1987, p. 1).

(3) OJ No L 94, 28. 4. 1970, p. 13.

Reference for a preliminary ruling by the Consiglio Nazionale Forense by order of 16 December 1993 in the proceedings before it between Reinhard Gebhard and the Consiglio dell'Ordine degli Avvocati e procuratori di Milano

(Case C-55/94)

(94/C 90/19)

Reference has been made to the Court of Justice of the European Communities by order of the Consiglio Nazionale Forense (National Council of Bar Associations) of 16 December 1993, which was received at the Court Registry on 8 February 1994, for a preliminary ruling in the proceedings before it between Reinhard Gebhard and the Consiglio dell'Ordine degli Avvocati e Procuratori di Milano (Milan Bar Association) on the following questions:

1. Is Article 2 of Law No 31 of 9 February 1982 on 'freedom for lawyers who are nationals of the Member States of the European Communities to provide services', enacted in implementation of the Community Directive of 22 March 1977 [1], which prohibits 'the establishment on the territory of the Italian Republic either of an office or of a principal or branch office', compatible with the rules laid down by that Directive, given that in the Directive there is no reference to the fact that the possibility of opening an office could be interpreted as reflecting a practitioner's intention to carry on his activities not on a temporary or occasional basis, but on a regular basis?
2. What are the criteria to be applied in assessing whether activities are of a temporary nature, with respect to the continuous and repetitive nature of the services provided by lawyers practising under the system referred to in the abovementioned Directive of 22 March 1977?

[1] Council Directive 77/249/EEC (OJ No L 78, 26. 3. 1977, p. 17).

Reference for a preliminary ruling by the Tribunale civile e penale, Piacenza, by order of 5 February 1994 in the proceedings pending before that court between SCAC and the Associazione dei produttori ortofrutticoli (Asipo)

(Case C-56/94)

(94/C 90/20)

Reference has been made to the Court of Justice of the European Communities by an order of the Tribunale civile e penale (Civil and Criminal Court) of 5 February 1994, received at the Court Registry on 9 February 1994, for a preliminary ruling pursuant to Article 177 of the EEC Treaty in the case of SCAC srl, established in Caorso, Piacenza, and Associazione die produttori ortofrutticoli (Association of horticultural producers) on the following questions:

1. Must Article 1 (2) of Council Regulation (EEC) No 668/93 [1] be interpreted as meaning that when a tomato-processing undertaking to which a certain quota for the production of peeled tomatoes had been allocated transfers 25 % of the fresh tomatoes from the quota for peeled tomatoes to the quota for concentrate or other products, such transfer affects subsequent marketing years, thus entailing that each undertaking is allocated the quota of fresh tomatoes intended for peeled tomatoes which it received in the preceding marketing year, increased however by a quota of fresh tomatoes intended for 'concentrate' or 'other products' in proportion to the percentage of fresh tomatoes actually processed into 'concentrate' or 'other products' under the abovementioned transfer of 25 % carried out during the preceding marketing year, and involving a corresponding decrease in the percentile quotas of fresh tomatoes (intended for 'concentrate' or 'other products') allocated to the other processing undertakings?
2. If the preceding question is answered in the affirmative, regard being had to the judgment of the Court of Justice in the Zuckerfabrik case [2] and to the fact that serious doubts must be entertained as to the validity of Article 1 (2) of Council Regulation (EEC) No 668/93 of 17 March 1993, and that the applicant appears to be under threat of serious and irreparable harm, is Article 1 (2) of that Regulation providing for a progressive increase in the processing quota for fresh tomatoes allocated to the undertaking producing 'peeled' tomatoes to the detriment of undertakings producing 'concentrate' or 'other products' under the machinery described in the question set out above, unlawful on the ground that it infringes the principle of non-discrimination recognized in the Community legal order and, in particular, Article 40 (3) of the EEC Treaty?

[1] OJ No L 72, 25. 3. 1993, p. 1.
[2] 1991 (ECR), p. I-534.

Action brought on 9 February 1994 by the Commission of the European Communities against the Italian Republic

(Case C-57/94)

(94/C 90/21)

An action against the Italian Republic was brought before the Court of Justice of the European Communities on 9 February 1994 by the Commission of the European Communities, represented by Antonio Aresu, a member of its Legal Service, acting as Agent, with an address for service in Luxembourg at the office of Georgios Kremlis, Wagner Centre, Kirchberg.

The applicant claims that the Court should:

1. declare that, in so far as the provincial administration of Ascoli Piceno awarded, on 21 May 1990, a private contract for the 11th and 12th supplementary reports for the completion of the section of rapid transit highway 'Ascoli-Mare' entitled 'stage IV — project 5134' and failed to publish a notice of invitation to tender in the *Official Journal of the European Communities*, the Italian Republic has failed to fulfil its obligations under Council Directive 71/305/EEC of 26 July 1971 concerning the coordination of procedures for the award of public works contracts [1];

2. order the Italian Republic to pay the costs.

Pleas in law and main arguments adduced in support:

It clearly follows from the combined provisions of Articles 2, 5 and 7 of Directive 71/305/EEC that, except in the special cases referred to in Article 9, the awarding authorities must, for the purpose of awarding public works contracts, use only open or restricted procedures, in accordance with the common advertising rules set out in Title III (Articles 12 to 19).

In the Commission's view, the Italian Government has failed to provide full and convincing evidence of the actual existence of any of the grounds for exception listed in Article 9 of the Directive. Consequently, by awarding the work by private contract on 21 May 1990 without publishing a notice of invitation to tender in the *Official Journal of the European Communities*, the provincial administration of Ascoli Piceno has breached Community law. The Commission believes that a clear case of an infringement of Directive 71/305/EEC on the part of the Italian Republic is therefore discernible.

(1) OJ No L 185, 16. 8. 1971, p. 5.

Action brought on 10 February 1994 by the Kingdom of the Netherlands against the Council of the European Union

(Case C-58/94)

(94/C 90/22)

An action against the Council of the European Union was brought before the Court of Justice of the European Communities on 10 February 1994 by the Kingdom of the Netherlands, represented by A. Bos and J. W. de Zwaan, acting as Agents, with an address for service in Luxembourg at the Netherlands Embassy, 5 rue C. M. Spoo.

The applicant claims that the Court should declare void:

(a) Council Decision 93/731/EC of 20 December 1993 on public access to Council documents (OJ No L 340, 3. 12. 1993, p. 43);

(b) Article 22 of the Council Decision fo 6 December 1993 adopting the Council's Rules of Procedure (OJ No L 304, 10. 12. 1993, p. 1);

(c) Council Decision 93/730/EC 'Code of Conduct concerning public access to Council and Commission documents' (OJ No L 340, 31. 12. 1993, p. 41), in so far as that Decision must be regarded as a legal act;

and in all cases order the Council to bear the costs.

Pleas in law and main arguments adduced in support:

— Council Decision 93/731/EEC contains provisions on a specific matter directly affecting Community citizens, which go well beyond the scope of the Council's internal organization and budget. Because of this external effect, that Decision is wrongly based on provisions (Article 151 (3) of the EC Treaty and Article 22 of the Council's Rules of Procedure) which are concerned solely with the Council's internal organization.

— For the same reasons, Article 22 of the Council's Rules of Procedure has no place in an instrument which is concerned solely with laying down provisions governing the internal organization and budget of an institution. The Council has thereby contravened Article 151 of the EC Treaty, Article 30 (3) of the ECSC Treaty and Article 121 (3) of the Euratom Treaty, or at least abused the powers vested in it in those provisions.

— The Code of Conduct contains no formal legal basis (in violation of Article 190 of the EC Treaty).

The Code of Conduct is not an authentic Council act; it is not in accordance with the procedural provisions set out in the Council's Rules of Procedure themselves, and no vote should have been taken on it in the Council, at least not by a simple majority.

— By limiting agreement on transparency to cooperation between two institutions only, the Council has violated the principle of institutional balance between the Commission, the Council and the European Parliament, as laid down in Article 4 of the EC Treaty.

Reference for a preliminary ruling by the Cour d'appel de Pau (1ère chambre) by judgment of that court of 8 December 1993 in the case of Ministre des Finances v. Société Pardo & Fils

(Case C-59/94)

(94/C 90/23)

Reference has been made to the Court of Justice of the European Communities by a judgment of the Cour d'appel de Pau (1ère chambre) (Court of Appeal, Pau, First Chamber) of 8 December 1993, which was received at the Court Registry on 10 February 1994, for a preliminary ruling in the case of Ministre des Finances v. Société Pardo & Fils on the following question:

Should the beverage described as sangria, made with more than 50 % wine of fresh grapes (heading No 22.04) be classified under heading No 22.05 or heading No 22.06 of the Common Customs Tariff?

Action brought on 11 February 1994 by the Commission of the European Communities against the Italian Republic

(Case C-60/94)

(94/C 90/24)

An action against the Italian Republic was brought before the Court of Justice on 11 February 1994 by the Commission of the European Communities, represented by Vittorio Di Bucci and Nicola Annecchino, members of its Legal Service, acting as Agents, with an address for service in Luxembourg at the office of Georgios Kremlis, Wagner Centre, Kirchberg.

The applicant claims that the Court should:

— declare that, by reserving to Italian nationals access to seamen's jobs aboard vessels flying the Italian flag, the Italian Republic has failed to fulfil its obligations pursuant to Article 48 of the EEC Treaty and under Articles 1 and 3 of Council Regulation (EEC) No 1612/68 [1] on the free movement of workers within the Community,

— order the Italian Republic to pay the costs.

Pleas in law and main arguments adduced in support:

The provisions of the codice della navigazione italiana (Italian Code of Navigation) reserving seamen's jobs aboard vessels flying the Italian flag to Italian nationals are clearly in breach of Community law regarding the free movement of workers.

[1] OJ No L 257, 19. 10. 1968, p. 2.

Action brought on 14 February 1994 by the Commission of the European Communities against the Federal Republic of Germany

(Case C-61/94)

(94/C 90/25)

An action against the Federal Republic of Germany was brought before the Court of Justice of the European Communities on 14 February 1994 by the Commission of the European Communities, represented by Dr Jörn Sack, Legal Adviser in its Legal Service, with an address for service in Luxembourg at the office of Georgios Kremlis, Wagner Centre C 254, Kirchberg.

The applicant claims that the Court should:

(i) declare that, by approving the importation of milk products under the inward processing relief arrangements, although the customs value was below the prices laid down by the International Dairy Arrangement [1], the Federal Republic of Germany has disregarded:

— the undertaking to cooperate pursuant to Article 6 (1) (a) of Annex I and Article 6 (a) of Annexes II and III to that Arrangement,

— the undertaking pursuant to Article 3 (1) of the said three Annexes, and

— as concerns the economic conditions for the issue of an inward processing authorization, Articles 5 to 8 of Council Regulation (EEC) No 1999/85 of 16 July 1985 on inward processing relief arrangements [2];

(ii) order the defendant to pay the costs.

Pleas in law and main arguments adduced in support:

According to the wording and meaning of the arrangement exceptions to the minimum price provisions are not permissible even for special customs procedure or trade. To make an exception for barter in connection with the inward processing arrangement would cause a dangerous gap and simply invite circumvention of the arrangement. Contracting Parties could import products below the minimum prices from non-Contracting Parties and then after working on them or processing them re-export them without respecting the minimum export prices. In particular that would encourage processors of dairy products to import their goods from non-Contracting States and evade the inward processing trade instead of observing the minimum export prices and buying the products in Contracting States and, after processing, exporting them on similar terms.

The defendant may not rely on Article 6 (1) (d) of Regulation (EEC) No 1999/85. In the case of an international treaty intended to ensure observance of minimum prices that provision must be considered in the light of the treaty and prices below the agreed level cannot therefore be regarded as economically necessary in order to carry through the transaction even if in a particular case a transaction may thereby be prevented. In view of the arrangement, prices below the minimum export prices do not merit protection.

[1] OJ No L 71, 17. 3. 1980, p. 11.
[2] OJ No L 188, 20. 7. 1985, p. 1.

Reference for a preliminary ruling by the Verwaltungsgericht, Frankfurt am Main, by order of that court of 4 February 1994 in the case of Fritz Werner Industrie-Ausrüstungen GmbH v. Federal Republic of Germany

(Case C-70/94)

(94/C 90/26)

Reference has been made to the Court of Justice of the European Communities by an order of the

Verwaltungsgericht (Administrative Court), Frankfurt am Main of 4 February 1994, which was received at the Court Registry on 22 February 1994, for a preliminary ruling in the case of Fritz Werner Industrie-Ausrüstungen GmbH v. Federal Republic of Germany on the following question:

Does Article 113 of the EC Treaty preclude national provisions on foreign trade requiring a licence for the export of a vacuum induction oven to Libya which in the present case was refused on the ground that refusal was necessary in order to protect the public security of the Member State owing to a feared disruption of the network of external relations?

Removal from the register of Case C-380/93 [1]

(94/C 90/27)

By order of 17 January 1994 the President of the Court of Justice of the European Communities ordered the removal from the register of Case C-380/93 (reference for a preliminary ruling from the Hessisches Landessozialgericht (Higher Social Court of Hesse): Dieudonnée Winkler v. Bundesanstalt für Arbeit (Federal Labour Office)).

[1] OJ No C 250, 14. 9. 1993.

Removal from the register of Case C-223/92 [1]

(94/C 90/28)

By order of 21 January 1994 the President of the Court of Justice of the European Communities ordered the removal from the register of Case C-223/92 (reference for a preliminary ruling from the Tribunale di Genova (District Court, Genoa)): non-contentious proceedings brought by Alessandro Corsi.

[1] OJ No C 160, 26. 6. 1992.

Removal from the register of Case C-48/92 [1]

(94/C 90/29)

By order of 27 January 1994 the President of the Court of Justice of the European Communities ordered the removal from the register of Case C-48/92 (reference for a preliminary ruling from the Bayerisches Oberstes Landesgericht (Bavarian Supreme Court)): administrative proceedings against Franz Wimmer.

[1] OJ No C 75, 26. 3. 1992.

COURT OF FIRST INSTANCE

Information for those with an interest in the decisions of the Court of First Instance in staff cases

(94/C 90/30)

The early appearance of the Reports of Cases in all the Community languages is an essential prerequisite for the acquisition of knowledge of the development of Community law and constitutes a legitimate expectation on the part of all the legal circles concerned. It has been shown to be the case that, owing to the constant increase in the number of cases decided, this can only be assured by a reduction in the volume of the Reports.

For this reason the decisions of the Court of First Instance in staff cases will henceforth not be published in the traditional form, that is to say in the *Reports of Cases before the Court of Justice and the Court of First Instance,* unless they are of general interest or establish principles of law.

All the judgments of the Court of First Instance in staff cases will be published in a new set of reports entitled *'Reports of European Community Staff Cases'*. These new reports will contain the judgments in the language of the case and also a summary which will be sent to subscribers in one or more of the nine Community languages, as required. They will also contain summaries of the judgments in this field delivered by the Court of Justice on appeals. Those judgments will, moreover, continue to be published in full in the general Reports. Access to the new *Reports of European Community Staff Cases* will be facilitated by indexes which will also be available in all the languages.

Under this new publishing practice the distribution of the roneoed versions of judgments and orders of the Court of First Instance will no longer cover staff cases, since provision has been made for the new Reports to appear quarterly in all the Community languages. The text of such a judgment or order may, however, still be obtained upon request (to be made to the Internal Services Division of the Court of Justice of the European Communities, L-2925 Luxembourg, and stating the date of the decision and the number of the case) in the form of a working document either in the language of the case or in another language in which it may exist.

This new arrangement came into effect on 1 January 1994. For 1994, the new *'Reports of European Community Staff Cases'* will be covered by the subscription to the *Reports of Cases before the Court of Justice and the Court of First Instance.*

JUDGMENT OF THE COURT OF FIRST INSTANCE

(Fourth Chamber)

of 9 February 1994

in Case T-82/91: Edward Patrick Latham v. Commission of the European Communities [1]

(Official — Rejection of a candidature — Rejection of a request for promotion)

(94/C 90/31)

(Language of the case: English)

In Case T-82/91: Edward Patrick Latham, a former official of the Commission of the European Communities, residing at Wezembeek-Oppem (Belgium), represented by Bernard O'Connor, Solicitor, with an address for service in Luxembourg at the Chambers of Arsène Kronshagen, 12 Boulevard de la Foire, v. Commission of the European Communities (Agent: Christopher Docksey) — application for (i) the annulment of the Commission's decision to reject the applicant's candidature for the post of Head of Unit 3 of the Consumer Policy Service at Grade A 3, (ii) an order requiring the Commission to fill that post at Grade A 3 and to appoint the applicant to that post and (iii) an award of damages — the Court of First Instance (Fourth Chamber), composed of: C. P. Briët, President, and A. Saggio and H. Kirschner, Judges; H. Jung, Registrar, gave a judgment on 9 February 1994, the operative part of which is as follows:

1. *the application is dismissed;*

2. *the parties are ordered to bear their own costs.*

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[1] OJ No C 331, 20. 12. 1991.

JUDGMENT OF THE COURT OF FIRST INSTANCE

(Fourth Chamber)

of 9 February 1994

in Case T-3/92: Edward Patrick Latham v. Commission of the European Communities [1]

(Official — Transfer decision — Refusal to promote an official)

(94/C 90/32)

(Language of the case: English)

In Case T-3/92: Edward Patrick Latham, a former official of the Commission of the European Communities, residing at Wezembeek-Oppem (Belgium), represented by Bernard O'Connor, Solicitor, with an address for service in Luxembourg at the office of Arsène Kronshagen, 12 Boulevard de la Foire, v. Commission of the European Communities (Agents: Hans Gerald Crossland and Christopher Docksey) — application for the annulment of the Commission's decision of 25 April 1991 to transfer the applicant to the post of Adviser in the Consumer Policy Service inasmuch as the applicant was not promoted to Grade A 3, and for damages — the Court of First Instance (Fourth Chamber), composed of: C. P. Briët, President, and A. Saggio and H. Kirschner, Judges; H. Jung, Registrar, gave a judgment on 9 February 1994, the operative part of which is as follows:

1. *the application is dismissed;*

2. *the parties are ordered to bear their own costs.*

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[1] OJ No C 37, 15. 2. 1992.

JUDGMENT OF THE COURT OF FIRST INSTANCE

(Fourth Chamber)

of 9 February 1994

in Case T-109/92: Isabel Lacruz Bassols v. Court of Justice of the European Communities [1]

(Official — Vacancy notice — Discrimination by language — Promotion — Comparative examination of the merits — Power of assessment — Institution's power to organize its departments)

(94/C 90/33)

(Language of the case: French)

(Provisional translation; the definitive translation will be published in the European Court Reports)

In Case T-109/92: Isabel Lacruz Bassols, an official of the Court of Justice of the European Communities, residing at Luxembourg, represented by Georges Vandersanden and Laure Levi, of the Brussels Bar, with an address for service in Luxembourg at the Chambers of Alex Schmitt, 67 avenue Guillaume, v. Court of Justice of the European Communities (Agent: Timothy Millett, assisted by Aloyse May, of the Luxembourg Bar) — application seeking the annulment, first, of the decisions taken by the defendant not to select the applicant for the posts advertised in Staff Vacancy Notices Nos CJ 116/91, CJ 117/91 and CJ 118/91 and, secondly, of the decisions of appointment taken on 24 February 1992 following the publication of those staff vacancy notices, and, in so far as necessary of the decision taken on 7 October 1992 rejecting the complaint made by the applicant on 4 June 1992 — the Court of First Instance (Fourth Chamber), composed of: C. P. Briët, President, and H. Kirschner and C. W. Bellamy, Judges; H. Jung, Registrar, gave a judgment on 9 February 1994, the operative part of which is as follows:

1. *the application is dismissed;*

2. *the parties are ordered to bear their own costs.*

(1) OJ No C 34, 6. 2. 1993.

JUDGMENT OF THE COURT OF FIRST INSTANCE

(Third Chamber)

of 10 February 1994

in Case T-107/92: George John White v. Commission of the European Communities (1)

(Official — Household allowance — Method of calculation — Recovery of undue payment — Normal diligence — Time bar — Reasonable time limit)

(94/C 90/34)

(Language of the case: French)

(Provisional translation; the definitive translation will be published in the European Court Reports)

In Case T-107/92: George John White, an official of the Commission of the European Communities residing at Woluwé-Saint-Étienne (Belgium), represented by Edmond Lebrun and Eric Boigelot of the Brussels Bar, with an address for service in Luxembourg at the Chambers of Louis Schiltz, 2 Rue du Fort Rheinsheim, v. Commission of the European Communities (Agent: Ana Maria Alves Vieira, assisted by Bertrand Wâgenbaur, of the Aix-la-Chapelle Bar) — application for, first, the annulment of the Commission decision of 1 April 1992 retroactively withdrawing the household allowance paid to him, secondly, the annulment of the Commission decision of 16 June 1992 setting out the sums unduly paid to the applicant, and the modalities for their reimbursement, and thirdly, an order that the Commission repay the sums already deducted from his salary — the Court of First Instance (Third Chamber), composed of R. García-Valdecasas, President, B. Vesterdorf and J. Biancarelli, Judges: H. Jung, Regristrar, gave a judgement on 10 February 1994, the operative part of which is as follows:

1. *the Commisison decision of 1 April 1992 is annulled in so far as it requires the repayment of sums unduly paid in respect of the household allowance for the priod from 1 January 1982 to 31 December 1983;*

2. *the Commission decision of 16 June 1992 setting out the amount of the sums unduly paid and the modalities for their reimbursement is annulled;*

3. *the remainder of the claims in the application are dismissed;*

4. *the applicant is to bear half of his own costs and the defendant is to bear its own costs together with half of the applicant's costs.*

(1) OJ No C 17, 22. 1. 1993.

JUDGMENT OF THE COURT OF FIRST INSTANCE

of 23 February 1994

in Joined Cases T-18/92 and T-68/92: Dimitrios Coussios v. Commission of the European Communities (1)

(Official — Notice of vacancy — Alteration — Rejection of candidature — Statement of reasons)

(94/C 90/35)

(Language of the case: French)

(Provisional translation; the definitive translation will be published in the European Court Reports)

In Joined Cases T-18/92 and T-68/92: Dimitrios Coussios, an official of the Commission of the European Communities, residing in Brussels, represented first by Jean-Noël Louis and subsequently by Georges Vandersanden, of the Brussels Bar, with an address for service in Luxembourg at the Chambers of Fiduciaire Myson Sàrl, 1 rue Glesener v. Commission of the European Communities (Agents: Gianluigi Valsesia, Sean Van Raepenbusch and Ana Maria Alves Vieira) — application for annulment of the Commission decisions of 8 July 1991 to re-publish Vacancy Notice COM/64/91 and of 13 February 1992 not to fill the vacancy by promotion or transfer, not to organize an internal competition and to hold an external competition as well as an order that the Commission pay damages — the Court of First Instance (Fifth Chamber) composed of: R. Schintgen, President of the Chamber, D. Barrington and K. Lenaerts, Judges; H. Jung, Registrar, gave a judgment on 23 February 1994, the operative part of which is as follows:

1. *the application in Case T-18/82 is dismissed;*

2. *in Case T-68/92 the Commission is ordered to pay the applicant the sum of ECU 2 000 as damages for a service-related fault;*

3. *the remainder of the application in Case T-69/92 is dismissed;*

4. *in Case T-18/92 the parties are ordered to bear their own costs;*

5. *in Case T-68/92 the Commission is ordered to pay the costs.*

(1) OJ No C 86, 7. 4. 1992;
OJ No C 288, 5. 11. 1992.

JUDGMENT OF THE COURT OF FIRST INSTANCE

(First Chamber)

of 23 February 1994

in Joined Cases T-39/92 and T-40/92: Groupement des Cartes Bancaires 'CB' and Europay International SA v. Commission of the European Communities [1]

(Competition — Statement of objections — Price-fixing agreement — Restriction of competition — Market to be taken into consideration — Exemption — Fines)

(94/C 90/36)

(Language of the case: French)

(Provisional translation; the definitive translation will be published in the European Court Reports)

In Joined Cases T-39/92 and T-40/92: Groupement des Cartes Bancaires 'CB', an economic interest grouping established under French law, having its registered office in Paris, represented by Alain Georges, of the Paris Bar, and by Aloyse May, of the Luxembourg Bar, and also, during the oral procedure, by Hugues Calvet, of the Paris Bar, with an address for service in Luxembourg at the Chambers of Aloyse May, 31 Grand Rue, and Europay International SA (formerly Eurocheque International sc), a company incorporated under Belgian law, having its registered office at Waterloo (Belgium), represented by Pierre Van Ommeslaghe, Avocat with a right of audience before the Cour de Cassation of Belgium, with an address for service in Luxembourg at the Chambers of Jean-Claude Wolter, 11 rue Goethe, v. Commission of the European Communities (Agent: Enrico Traversa, assisted by Hervé Lehman, of the Paris Bar) — application for the annulment of Commission Decision 92/212/EEC of 25 March 1992 of 25 March 1992 relating to a proceeding pursuant to Article 85 of the EEC Treaty (IV/30.717-A — Eurocheque: Helsinki Agreement [2]), or, in the alternative, for the annulment or reduction of the fines imposed on the applicants — the Court of First Instance (First Chamber), composed of: R. Schintgen, President, and R. García-Valdecasas, H. Kirschner, B. Vesterdorf and K. Lenaerts, Judges; H. Jung, Registrar, gave a judgment on 23 February 1994, the operative part of which is as follows:

1. *Articles 1 and 3 of Commission Decision 9/212/EEC of 25 March 1992 relating to a proceeding pursuant to Article 85 of the EEC Treaty (IV/30.717-A — Eurocheque: Helsinki Agreement) are annulled in so far as they refer to Eurocheque International;*

2. *the amount of the fine imposed on the Groupement des Cartes Bancaires 'CB' in Article 3 of the Decision is set at ECU 2 000 000;*

3. *for the rest, the application of the Groupement des Cartes Bancaires 'CB' is dismissed;*

4. *the Commission is ordered to bear its own costs and to pay the costs incurred by Europay and one-half of the costs incurred by the Groupement. The Groupement shall bear one-half of its own costs.*

[1] OJ No C 167, 4. 7. 1992; OJ No C 160, 26. 6. 1992.
[2] OJ No L 95, 9. 4. 1992.

JUDGMENT OF THE COURT OF FIRST INSTANCE

(Fourth Chamber)

of 24 February 1994

in Case T-93/92: Eberhard Burck v. Commission of the European Communities [1]

(Officials — Household allowance — Recovery of undue payment)

(94/C 90/37)

(Language of the case: German)

(Provisional translation; the definitive translation will be published in the European Court Reports)

In Case T-93/92: Eberhard Burck, a former official of the Commission of the European Communities, residing at Höhr-Grenzhausen (Germany), represented by Dr Hans-Josef Rüber, Rechtsanwalt, Cologne, with an address for service in Luxembourg at the Chambers of Ernest Arendt, 8—10 rue Mathias Hardt, against the Commission of the European Communities (Agent: Götz zur Hausen, assisted by Bertrand Wägenbaur of the Cologne Bar) — application for (i) the annulment of the Commission's decision of 20 December 1991 to stop payment, with retroactive effect, of the household allowance which the applicant had received until that time, (ii) the repayment of the amounts deducted from the applicant's pension pursuant to the Commission's decision of 6 February 1992 and (iii) a declaration that the Commission may not deduct any of the amounts referred to in that decision — the Court of First Instance (Fourth Chamber), composed of: C. P. Briët, President of the Chamber, H. Kirschner and C. W. Bellamy, Judges; H. Jung, Registrar, gave a judgment on 24 February 1994, the operative part of which is as follows:

1. *the application is dismissed;*

2. *the parties are ordered to bear their own costs.*

[1] OJ No C 331, 16. 12. 1992, p. 15.

JUDGMENT OF THE COURT OF FIRST INSTANCE

of 24 February 1994

in Case T-108/92: Giuseppe Caló v. Commission of the European Communities [1]

(Official — Procedure for filling vacancy by promotion or transfer — Qualifications required in the vacancy notice — Right to be heard — Infringement of Article 26 of the Staff Regulations — Consideration of the comparative merits of the candidates — Statement of reasons for the decision rejecting a candidature)

(94/C 90/38)

(Language of the case: French)

(Provisional translation; the definitive translation will be published in the European Court Reports)

In Case T-108/92: Giuseppe Caló, an official of the Commission of the European Communities, residing in

Luxembourg, represented by Jean-Noël Louis, of the Brussels Bar, with an address for service in Luxembourg at the Chambers of Fiduciaire Myson Sàrl, 1 rue Glesener v. Commission of the European Communities (Agent: Joseph Griesmar, assisted by Benoît Cambier, of the Brussels Bar) — application for annulment of the Commission decision rejecting the applicant's candidature for the post of director declared vacant by Vacancy Notice COM/103/91 as well as all subsequent measures adopted in connection with the procedure for filling the said vacancy — the Court of First Instance (Fourth Chamber), composed of: C. P. Briët, President of the Chamber, A. Saggio and C. W. Bellamy, Judges; J. Palacio González, Administrator, for the Registrar, gave a judgment on 24 February 1994, the operative part of which is as follows:

1. *the application is dismissed;*

2. *the parties are ordered to bear their own costs.*

(1) OJ No C 13, 19. 1. 1993.

JUDGMENT OF THE COURT OF FIRST INSTANCE

of 24 February 1994

in Case T-38/93: Axel Michael Stahlschmidt v. European Parliament (1)

(Officials — Recovery of undue payment)

(94/C 90/39)

(Language of the case: French)

(Provisional translation; the definitive translation will be published in the European Court Reports)

In Case T-38/93: Axel Michael Stahlschmidt, an official of the European Parliament, resident in Bourglinster (Luxembourg), represented by Georges Vandersanden, of the Brussels Bar, with an address for service in Luxembourg at the office of Fiduciaire Myson, 1 rue Glesener, against the European Parliament (Agents: initially Jorge Campinos and José Luis Rufas Quintana, then José Luis Rufas Quintana) — application for the annulment of the European Parliament's decision of 9 October 1992 requiring the applicant to reimburse sums unduly paid in respect of expatriation allowance from 1 October 1987 to 1 July 1992 — the Court of First Instance (Fourth Chamber), composed of: C. P. Briët, President of the Chamber, A. Saggio and C. W. Bellamy, Judges; J. Palacio González, Administrator, gave a judgment on 24 February 1994, the operative part of which is as follows:

1. *the application is dismissed;*

2. *the parties are ordered to bear their own costs.*

(1) OJ No C 178, 30. 6. 1993, p. 12.

ORDER OF THE PRESIDENT OF THE COURT OF FIRST INSTANCE

of 25 January 1994

in Case T-20/94 R: Johannes Hartmann v. Council of the European Union and Commission of the European Communities

(94/C 90/40)

(Language of the case: German)

(Provisional translation; the definitive translation will be published in the European Court Reports)

In Case T-20/93 R: Johannes Hartmann, residing in Hamminkeln (Federal Republic of Germany), represented by Bernd Meisterernst, Mechtild Düsing, Dietrich Manstetten and Frank Schulze, Rechtsanwälte, Hamm, with an address for service in Luxembourg at the Chambers of Lambert, Dupong and Konsbruck, 14a rue des Bains, v. Council of the European Union and Commission of the European Communities — application for provisional suspension of the operation of the third paragraph of Article 14 of Council Regulation (EEC) No 2187/93 of 22 July 1993 providing for an offer of compensation to certain producers of milk and milk products temporarily prevented from carrying on their activity — the President of the Court of First Instance, by way of interim measures, made an order on 25 January 1994 whose operative part is as follows:

1. *the suspension of the period laid down in the third paragraph of Article 14 of Council Regulation (EEC) No 2187/93 providing for an offer of compensation to certain producers of milk and milk products temporarily prevented from carrying on their trade, ordered by the President of the Court of First Instance on 12 January 1994 in Case T-554/93 R, Abbot Trust and Others v. Council and Commission, produces legal effects for the applicant. For him that period shall not expire until two weeks after the date on which the order bringing to an end the interlocutory proceedings in Case T-555/93 R, D. A. Jones v. Council and Commission, has been given;*

2. *costs are reserved.*

ORDER OF THE PRESIDENT OF THE COURT OF FIRST INSTANCE

of 25 January 1994

in Cases T-21/94 R Walter Murr, T-22/94 R Wolfgang Pitz, T-23/94 R Winfried Postert, T-24/94 R Heinricht Humberg, T-25/94 R Wilhelm Ashölter, T-26/94 R Albert Horstmann, T-27/94 R Friedrich Brüne, T-28/94 R Antonius Hertleif, T-29/94 R Helmut Bühler, T-30/94 R Friedrich Köchling, T-31/94 R Wilhelm Oehl and T-32/94 R: Josef Heller v. Council of the European Union and Commission of the European Communities

(94/C 90/41)

(Language of the case: German)

(Provisional translation; the definitive translation will be published in the European Court Reports)

In Case T-21/94 R Walter Murr, residing at Windsbach (Federal Republic of Germany), T-22/94 R Wolfgang Pitz,

residing at Kirchhain (Federal Republic of Germany), T-23/94 R Winfried Postert, residing at Steinheim (Federal Republic of Germany), T-24/94 R Heinricht Humberg, residing at Südlohn (Federal Republic of Germany), T-25/94 R Wilhelm Ashölter, residing at Münster (Federal Republic of Germany), T-26/94 R Albert Horstmann, residing at Brilon (Federal Republic of Germany), T-27/94 R Friedrich Brüne, residing at Diemelstadt (Federal Republic of Germany), T-28/94 R Antonius Hertleif, residing at Telgte (Federal Republic of Germany), T-29/94 R Helmut Bühler, residing at Freiamt (Federal Republic of Germany), T-30/94 R Friedrich Köchling, residing at Diemelstadt (Federal Republic of Germany), T-31/94 R Wilhelm Oehl, residing at Arolsen-Helsen (Federal Republic of Germany) and T-32/94 R Josef Heller, residing at Rockenberg (Federal Republic of Germany), represented by Bernd Meisterernst, Mechtild Düsing, Dietrich Manstetten and Frank Schulze, Rechtsanwälte Hamm, with an address of service in Luxembourg at the Chambers of Lambert, Dupong and Konsbruck, 14a rue des Bains v. Council of the European Union and Commission of the European Communities — application for provisional suspension of the operation of the effect of the third paragraph of Article 14 of Council Regulation (EEC) No 2187/93 of 22 July 1993 providing for an offer of compensation to certain producers of milk and milk products temporarily prevented from carrying on their trade — the President of the Court of First Instance, by way of an interlocutory ruling, made an order on 25 January 1994, the operative part of which is as follows:

1. *the second head of claims is rejected;*

2. *costs are reserved.*

ORDER OF THE PRESIDENT OF THE COURT OF FIRST INSTANCE

of 28 January 1994

in Cases T-87/93 R Heinrich Wüllner, T-130/93 R Bernd Hüsemann, T-33/94 R Michael Gülden, T-34/94 R Paul Berhorst, T-35/94 R Heinrich Verhoeven, T-38/94 R Ludwig Röhrig, T-39/94 R Karl-Wilhelm Gröpper, T-40/94 R Johannes Freiburg-Vilthaut, T-41/94 R Heinrich Katerkamp, T-42/94 R Paul Gövert, T-43/94 R Heinrich Becker-Hardt, T-44/94 R Klaus Hursel, T-45/94 R Maria Hemmersmeier, T-46/94 R Johannes Meurs, T-47/94 R Alfons Willeke Jun., T-48/94 R Bernhard Sieverdingbeck, T-49/94 R Arno ten Freyhaus, T-50/94 R Wilhelm Kühnle, T-51/94 R Herbert Menkel and T-52/94 R Clemens Aldenhövel, v. the Council of the European Union and the Commission of the European Communities

(94/C 90/42)

(Language of the case: German)

(Provisional translation; the definitive translation will be published in the European Court Reports)

In Cases T-87/93 R Heinrich Wüllner, residing at Rahden (Federal Republic of Germany), T-130/93 R Bernd Hüsemann, residing at Nordhorn (Federal Republic of Germany), T-33/93 R Michael Gülden, residing at Elsdorf (Federal Republic of Germany), T-34/94 R Paul Berhorst, residing at Delbrück (Federal Republic of Germany), T-35/94 R Heinrich Verhoeven, residing at Kevelaer (Federal Republic of Germany), T-38/94 R Ludwig Röhrig, residing at Sundern (Federal Republic of Germany), T-39/94 R Karl-Wilhelm Gröpper, residing at Delbrück (Federal Republic of Germany), T-40/94 R Johannes Freiburg-Vilthaut, residing at Sundern (Federal Republic of Germany), T-41/94 R Heinrich Katerkamp, residing at Wettringen (Federal Republic of Germany), T-42/94 R Paul Gövert, residing at Nottuln (Federal Republic of Germany), T-43/94 R Heinrich Becker-Hardt, residing at Rhede (Federal Republic of Germany), T-44/94 R Klaus Hursel, residing at Monschau (Federal Republic of Germany), T-45/94 R Maria Hemmersmeier, residing at Rietberg (Federal Republic of Germany), T-46/94 R Johannes Meurs, residing at Kevelaer (Federal Republic of Germany), T-47/94 R Alfons Willeke Jun., residing at Anröchte (Federal Republic of Germany), T-48/94 R Bernhard Sieverdingbeck, residing at Velen (Federal Republic of Germany), T-49/94 R Arno ten Freyhaus, residing at Hamminkeln (Federal Republic of Germany), T-50/94 R Wilhelm Kühnle, residing at Kupferzell-Feßbach (Federal Republic of Germany), T-51/94 R Herbert Menkel, residing at Arolsen (Federal Republic of Germany) and T-52/94 R Clemens Aldenhövel, residing at Senden (Federal Republic of Germany), represented by Bernd Meisterernst, Mechtild Düsing, Dietrich Manstetten and Frank Schulze, Rechtsanwälte Hamm, with an address of service in Luxembourg at the Chambers of Lambert, Dupong and Konsbruck, 14a rue des Bains v. Council of the European Union and Commission of the European Communities — application for provisional suspension of the operation of the effect of the third paragraph of Article 14 of Council Regulation (EEC) No 2187/93 of 22 July 1993 providing for an offer of compensation to certain producers of milk and milk products temporarily prevented from carrying on their trade — the President of the Court of First Instance, by way of an interlocutory ruling, made an order on 28 January 1994, the operative part of which is as follows:

1. *the applications for interim measures are dismissed;*

2. *costs are reserved.*

ORDER OF THE PRESIDENT OF THE COURT OF FIRST INSTANCE

of 1 February 1994

in Cases T-278/93 R and T-555/93 R, David Alwyn Jones and Mary Bridget Jones, T-280/93 R, Brian Stephen Garrett v. Council of the European Union and Commission of the European Communities, and T-541/93 R, Norman McCutcheon and Others v. Council of the European Union

(94/C 90/43)

(Language of the case: English)

In Cases T-278/93 R and T-555/93 R, David Alwyn Jones and Mary Bridget Jones, of Llandeilo (United Kingdom),

represented by E. H. Pijnacker Hordijk, of the Amsterdam Bar, and by H. J. Bronkhorst, Advocaat at the Hoge Raad der Nederlanden, instructed by Burges Salmon, Solicitors, Bristol, with an address for service in Luxembourg at the Chambers of Luc Frieden, 62 avenue Guillaume v. Council of the European Union (Agents: Arthur Brautigam and Michel Bishop) and Commission of the European Communities (Agents: Gérard Rozet and Christopher Docksey), T-280/93 R, Brian Stephen Garrett, of Motcombe (United Kingdom), represented by Martin Rawstorne, Solicitor, Yeovil, with an address for service in Luxembourg at the Chambers of Berna et Associés, 16a Boulevard de la Foire v. Council of the European Union (Agents: Arthur Brautigam and Michel Bishop) and Commission of the European Communities (Agents: Gérard Rozet and Xavier Lewis), and T-541/93 R, Norman McCutcheon and Others, represented by James O'Reilly SC and Philippa Watson, Barrister, instructed by Oliver Ryan-Purcell, Solicitor, Tipperary, with an address for service in Luxembourg at the Fyfe Business Centre, 29 rue Jean-Pierre Brasseur v. Council of the European Union (Agents: Arthur Brautigam and Michel Bishop) — application, in Cases T-278/93 R, T-555/93 R and T-541/93 R, first, for an order suspending the operation of Council Regulation (EEC) No 2187/93 of 22 July 1993 providing for an offer of compensation to certain producers of milk and milk products temporarily prevented from carrying on their trade [1] and in particular the fourth paragraph of Article 14 thereof and secondly, for an order that the Council and the Commission take all appropriate steps to ensure that the applicants receive the flat-rate compensation provided for in the said regulation, without having to relinquish their claims in the main proceedings and, in Case T-280/93 R, for an order that the Council and the Commission, first, reach an agreement with the applicant within one month on compensation in respect of his two holdings, failing which the procedure in the main proceedings be recommenced and, secondly, make an immediate payment to him of £ 329 000 on account of compensation — the President of the Court of First Instance made an order on 1 February 1994, the operative part of which is as follows:

1. *the applications for interim measures are dismissed;*

2. *costs are reserved.*

[1] OJ No L 196, 5. 8. 1993, p. 6.

ORDER OF THE PRESIDENT OF THE COURT OF FIRST INSTANCE

of 8 February 1994

in Case T-6/94 R: Athina Avramidou v. European Parliament

(94/C 90/44)

(Language of the case: French)

(Provisional translation; the definitive translation will be published in the European Court Reports)

In Case T-6/94 R: Athina Avramidou, an official of the European Parliament, residing in Bertrange (France), represented by Catherine Thill-Kamitaki, of the Luxembourg Bar, with an address for service in Luxembourg at the latter's Chambers, 17 Boulevard Royal, v. European Parliament (Agent: Ezio Perillo) — application for an order that the European Parliament make to the applicant an interim payment of Bfrs 1 000 000 on account of the total claimed in the main proceedings, corresponding, first, to the sums retained by the European Parliament from her remuneration during the period from December 1990 to December 1992, and secondly, to remuneration in respect of leave not taken — the President of the Court of First Instance made an order on 8 February 1994, the operative part of which is as follows:

1. *the application for interim measures is dismissed;*

2. *the costs are reserved.*

ORDER OF THE COURT OF FIRST INSTANCE

of 10 February 1994

in Case T-468/93: Frinil-Frio Naval e Industrial, SA v. Commission of the European Communities [1]

(European Social Fund — Action for annulment of reduction of financial aid — Inadmissibility)

(94/C 90/45)

(Language of the case: Portuguese)

(Provisional translation; the definitive translation will be published in the European Court Reports)

In Case T-468/93: Frinil-Frio Naval e Industrial, SA, a company incorporated under Portuguese law and established in Lisbon, represented by Manuel Rodrigues, of the Lisbon Bar, with an address for service in Luxembourg at the Chambers of Azevedo Angelo Alves, 61 rue de Gasperich, against Commission of the European Communities (Agent: António Caeiro and Nicolas Khan) — application for annulment of the decision of the Commission reducing the aid granted to the applicant by the European Social Fund — the Court (Second Chamber), composed of J. L. Cruz Vilaça, President, and C. P. Briët, A.

Kalogeropoulos, A. Saggio and J. Biancarelli, Judges; H. Jung, Registrar, made an order on 10 February 1994, the operative part of which is as follows:

1. *the application is dismissed as inadmissible;*

2. *the applicant is ordered to pay the costs.*

(1) OJ No C 116, 27. 3. 1993.

Application of 1. Johannes Hartmann lodged on 22 January 1994 (Case T-20/94), 2. Walter Murr lodged on 24 January 1994 (Case T-21/94), 3. Wolfgang Pitz lodged on 24 January 1994 (Case T-22/94), 4. Winfried Postert lodged on 24 January 1994 (Case T-23/94), 5. Heinrich Humberg lodged on 24 January 1994 (Case T-24/94), 6. Wilhelm Ashölter lodged on 24 January 1994 (Case T-25/94), 7. Albert Horstmann lodged on 24 January 1994 (Case T-26/94), 8. Friedrich Brüne lodged on 24 January 1994 (Case T-27/94), 9. Antonius Hertleif lodged on 24 January 1994 (Case T-28/94), 10. Helmut Bühler lodged on 24 January 1994 (Case T-29/94), 11. Friedrich Köchling lodged on 24 January 1994 (Case T-30/94), 12. Wilhelm Oehl lodged on 24 January 1994 (Case T-31/94), 13. Josef Heller lodged on 25 January 1994 (Case T-32/94), 14. Michael Gülden lodged on 25 January 1994 (Rechtssache T-33/94), 15. Paul Berhorst lodged on 25 January 1994 (Case T-34/94), 16. Heinrich Verhoeven lodged on 25 January 1994 (Case T-35/94), 17. Ludwig Röhrig lodged on 26 January 1994 (Case T-38/94), 18. Karl-Wilhelm Gröpper lodged on 26 January 1994 (Case T-39/94), 19. Johannes Freiburg-Vilthaut lodged on 26 January 1994 (Case T-40/94), 20. Heinrich Katerkamp lodged on 26 January 1994 (Case T-41/94), 21. Paul Gövert lodged on 26 January 1994 (Case T-42/94), 22. Heinrich Becker-Hardt lodged on 26 January 1994 (Case T-43/94), 23. Klaus Hursel lodged on 26 January 1994 (Case T-44/94), 24. Maria Hemmersmeier lodged on 26 January 1994 (Case T-45/94), 25. Johannes Meurs lodged on 27 January 1994 (Case T-46/94), 26. Alfons Willeke jun. lodged on 27 January 1994 (Case T-47/94), 27. Bernhard Sieverdingbeck lodged on 27 January 1994 (Case T-48/94), 28. Arno ten Freyhaus lodged on 27 January 1994 (Case T-49/94), 29. Wilhelm Kühnle lodged on 27 January 1994 (Case T-50/94), 30. Herbert Menkel lodged on 27 January 1994 (Case T-51/94), 31. Clemens Aldenhövel lodged on 27 January 1994 (Case T-52/94), 32. Bernhard Determeyer lodged on 28 January 1994 (Rechtssache T-54/94), 33. Ewald Hölscher lodged on 31 January 1994 (Case T-57/94), 34. Karl Borgelt lodged on 31 January 1994 (Case T-58/94), 35. Johannes Blömeke lodged on 31 January 1994 (Case T-59/94), 36. Garrelt Agena lodged on 1 February 1994 (Case T-61/94), 37. Klaus Hördemann lodged on 1 February 1994 (Case T-62/94) and 38. Fritz Sturm lodged on 1 February 1994 (Case T-63/94) v. Council and Commission

(94/C 90/46)

(Language of the case: German)

The applicants are represented by Bernd Meisterernst, Mechtild Düsing, Dietrich Mansetten and Dr Frank Schulze, Rechtsanwälte.

Address for service: Chambers of Lambert, Dupong and Konsbrück, Rechtsanwälte, 14a rue des Bains.

The applicants claim that the Court should:

1. order the defendants jointly to pay to the applicants SLOM compensation in accordance with Council Regulation No 2187/93 of 22 July 1993 in respect of periods stated in the individual applications, together with interest at the rate of 8 % for the period as from 19 May 1992; the annual quantity for which compensation is to be paid is also set out in the individual applications.

Specifically application is made for an order that:

2. the defendants should jointly pay the sums set out in the individual applications together with interest thereon at 8 % from 19 May 1992 and should bear the legal costs.

Pleas in law and main arguments adduced in support:

In order to substantiate their claims for demages the applicants submit that it was only by the judgment of the Court in Case 120/86 Mulder v. Minister van Lanbouw en Visserij 1988 (ECR) p. 2321 that it became clear to the farmers that they had suffered damage as a result of a legislative wrong. Prior thereto the preconditions for the commencement of the limitation period had not been met.

Action brought on 2 February 1994 by Dimitrios Benecos against the Commission of the European Communities

(Case T-64/94)

(94/C 90/47)

(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 2 February 1994 by Dimitrios Benecos, residing at Brussels, represented by Georges Vandersanden, of the Brussels Bar, with an address for service in Luxembourg at Fiduciaire Myson Sàrl, 1 rue Glesener, Luxembourg L-1631.

The applicant claims that the Court should:

— declare the action admissible and well founded,

— annul the decision of the Commission of 15 March 1993 in so far as it declares that the disease of the applicant is consolidated at 5 May 1992 and refuses to grant him permanent partial invalidity, caused by an occupational disease and subsequently aggravated,

— award the applicant compensation for material and non-material damage suffered,

— order the appointment of a medical expert with the responsibility of delivering an opinion, on the basis of

the medical file and following an examination of the applicant, on the occupational origin of the partial permanent invalidity of 11 % awarded to him,

— order the Commission to pay all the costs.

Pleas in law and main arguments adduced in support:

The applicant challenges the refusal of the appointing authority to recognize partial permanent invalidity caused by an occupational disease and subsequently aggravated.

Following an initial report by the Medical Committee on the case of the applicant, there had been unanimous agreement that his duties at the Commission could have aggravated his functional disturbances and his invalidity had been assessed at 30 %.

Since the report had been drawn up in those terms, it was a matter for the Commission to draw the administrative consequences in accordance with Article 73 of the Staff Regulations. On the other hand, the Commission, using the pretext that the said report was not sufficiently clear in order to allow it to make a decision, assigned new tasks to the Medical Committee which came to the conclusion that the aggravation of the visual disturbances of the applicant had been wholly reabsorbed at the date of 'consolidation', 5 May 1992. It was on the basis of that opinion that the appointing authority took the contested decision.

The applicant claims that the Rules on the Insurance of Officials of the European Communities against the risk of accident and of occupational disease as well as the principle of good management and sound administration have been infringed in so far as, first, the defendant disregarded the tasks assigned to the Medical Committee and, secondly, the Commission did not restrict itself to implementing the first report of that Committee which was drawn up in sufficiently clear terms.

Moreover, the applicant relies on a breach of the duty to grant assistance as well as misuse of powers.

Action brought on 3 February 1994 by Michel Pinton against the European Parliament

(Case T-65/94)

(94/C 90/48)

(Language of the case: French)

An action against the the European Parliament was brought before the Court of First Instance of the European Communities on 3 February 1994 by Michel Pinton, residing in Felletin (France), represented by Jean-Pierre Spitzer, of the Paris Bar, with an address for service in Luxembourg at the office of Eugénio Preta, 6 rue du Glacis.

The applicant claims that the Court should:

— if the President of the Court of First Instance has not already ordered the payment of ECU 16 052 to Mr Pinton, award him that amount, which is to be found in the reserve account opened for that purpose, by way of damages,

— order the European Parliament to pay Mr Pinton an additional sum of ECU 250 000 by way of damages,

— order the European Parliament to pay all the costs, including those of the application for interim relief, and especially all the expenses incurred by Mr Pinton in the course of the two actions.

Pleas in law and main arguments adduced in support:

The applicant, a member of the Non-attached Group at the European Parliament, challenges the refusal to place at his disposal a sum of money due under item 3708 of the budget for 1993.

The applicant maintains that, in accordance with a proposal put forward by the Secretary-General on 18 November 1993 with regard to regulations concerning the non-attached members, it was confirmed that the latter enjoyed a right which, although not expressed in writing was pre-existent and had been respected for a number of years. It was on this ground that the Secretariat of the Non-attached Group took the matter to the Secretariat of the Liberal, Democratic and Reformist Group, of which the applicant had previously been a member, to request that he be allotted a proportionate amount of the balance still available under item 3708 for 1993. In view of the refusal by the Liberal, Democratic and Reformist Group to comply with the request, the Conference of Presidents, acting on a proposal from the Secretary-General, asked the President to initiate the required procedure in order to meet the applicant's claims. That decision was never implemented. On the contrary, the Committee on Budgets raised a fresh difficulty linked to the principle of annuality and postponed consideration of the issue.

The applicant maintains that the aforegoing constitutes a serious disregard for certain fundamental principles, namely the protection of legitimate expectations and the equality of all before the Law. The Parliament's attitude represents a violation of the fundamental rights protected by the European Convention on Human Rights and in particular of Article 2, in so far as the applicant is owner of the sum of money in dispute and this is being unjustly withheld from him.

Action brought on 4 February 1994 by Auditel Srl against the Commission of the European Communities

(Case T-66/94)

(94/C 90/49)

(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 4 February 1994

by Auditel Srl, a company whose registered office is in Milan, represented by Giuseppe Sena and Paola Tarchini, of the Milan Bar, Mario Siragusa, of the Rome Bar, Giuseppe Scassellati Sforzolini and Francesca Maria Moretti, of the Bologna Bar, with an address for service in Luxembourg at the Chambers of Messrs Elvinger, Hoss & Prussen, 15 Côte d'Eich.

The applicant claims that the Court of First Instance should:

— annul, in whole or in part, Articles 1 and 2 of Commission Decision No 93/668/EC Auditel [1],

— order the Commission to pay the costs, disbursements and fees.

Pleas in law and main arguments adduced in support:

Auditel Srl, whose object is the recording and systematic dissemination of information on audiences for television broadcasts in Italy, challenges the Commission's decision which considered that 'until its formal deletion on 24 July 1993, Article 11 of the agreement between the members of Auditel, as last amended on 8 July 1992, and in its previous forms' constituted an infringement of Article 85 (1) of the EEC Treaty. In addition to various advertising agencies and the RAI (Italian Radio and Television), those members include the Federazione Radio e Televisione, Gruppo STP-Rv, Consorzio Canale 5, Rete Quattro and Rete 10.

In the abovementioned form of Article 11 of the Agreement, Auditel's partners undertake, with regard solely to the measurement of audience ratings, to use exclusively the measurements collected by or on behalf of Auditel, for the sole purpose of avoiding disagreements on television audience shares and distortions in the information provided to the public. In that connection, it must be stated that the data on which Auditel works are so-called simple (or elementary) data showing only what the television audience for a given television station is at every minute. They differ from 'complex' data, which connect the simple data with a particular programme or advertisement. In the contested decision the Commission claims that the said Article 11 constitutes a restriction of competition in that it deprives the members of Auditel of any freedom to use figures from another source, hindering the development of effective competition in the field of basic data. Moreover, the Commission maintains, Auditel has created a *de facto* monopoly on the audience ratings market for its own benefit.

The applicant claims that the Commission's behaviour in the seven years which elapsed between the notification and the decision was ambivalent and inconsistent to the point of giving rise to erroneous beliefs as to the actual subject-matter of the proceedings, in particular with respect to the possibility that Article 11 was contrary to the principles of competition law. In Auditel's opinion, that conduct placed it at a disadvantage, by entailing uncertainty as to the real objectives of the Commission and thus causing difficulties in preparing its defence.

Secondly, the applicant claims that the Commission has no legitimate interest in issuing the challenged decision. In that connection it emphasizes that Auditel's abandonment of Article 11, of which the Commission was duly notified, preceded by several months the adoption of the contested decision; the Commission could not therefore give a decision because the subject-matter of the dispute no longer existed.

As far as the substance is concerned, the applicant claims that the sole purpose of Article 11 of the Agreement was to avoid a 'ratings war' between the private and public channels. Far from eliminating competition in the market for simple data measurements, that article promoted the development of competition both between channels and also in the markets for advertising, data-processing and market research. Furthermore, the fact that Auditel's figures were made available at very low prices to anyone who asked for them guaranteed equality between operators.

As regards Auditel's partners, absolute freedom continued to exist for them to turn to external sources for complex data for any purpose, and considerable freedom also existed with respect to simple data, with the exception of those strictly applicable to Auditel's objects.

As far as the alleged damage to trade between Member States is concerned, the applicant claims that RAI's transmissions abroad are not included in Auditel's figures, foreign-channel transmissions received in Italy form a minute part of the market concerned and the possible effects of Article 11 on the Community market appear highly remote and incapable of measurement.

Finally, the applicant asserts that if Article 85 (1) should be applied, the requirements for an exemption are met in this case, in so far as Article 11 has a 'historical' purpose, which is to affirm that Auditel's simple data are objective, homogenous and impartial, and capable of providing the operators in that sector with a clear picture of the market in which they operate.

[1] OJ No L 306, 11. 12. 1993, p. 50.

Action brought on 4 February 1994 by Ladbroke Racing Limited against the Commission of the European Communities

(Case T-67/94)

(94/C 90/50)

(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 4 February 1994 by Ladbroke Racing Limited, represented by Jeremy Lever, QC, Christopher Vajda, Barrister and Stephen Kon, Solicitor of Messrs S. J. Berwin & Co, with an address for service in Luxembourg at the offices of Winandy & Err, 60, avenue Gaston Diderich, L-1420.

The applicant claims that the Court should order:

(a) the annulment of Decision 93/625/EEC in so far as it decided:

(i) that the following measures fell outside the scope of Article 92 (1) of the EEC Treaty:

(a) the Treasury facilities allowing the PMU to defer the payment of certain betting levies to the State;

(b) the exemption from corporation tax;

(c) the exemption from income tax;

(d) the waiver of FF 180 million of betting levies in 1986;

(e) the PMU's entitlement to retain unclaimed winnings;

(f) the exemption from the one month delay rule for the deduction of VAT from 1 January 1989 onwards;

(ii) that the following measures were compatible with the common market pursuant to Article 92 of the EEC Treaty:

(a) the FF 315 million received as a result of rounding down punters' winnings to the nearest 10 centimes between 1982 and 1985;

(b) the exemption from the one month delay rule for the deduction of VAT prior to January 1989;

(c) the exemption from the employers' contribution to building and construction work prior to 1 January 1989;

(iii) (a) that there should be no repayment of aid granted to the PMU in the form of exemption from the employers' contribution to building and construction work in respect of the period prior to 11 January 1991; and

(b) that the Commission has no obligation to determine itself the amount of the aid in respect of the exemption from the employers' contribution to building and construction work that the Commission ordered to be repaid from 11 January 1991;

(b) that the Commission be required:

(i) within one month of the Court's judgment to calculate:

(a) the amount of aid granted to the PMU in the form of exemption from the employers' contribution to building and construction work in respect to the period after 11 January 1991, such aid being the amount of revenue waived in respect of that levy by the French State during that period; and

(b) the amount of interest thereon, such interest to be calculated in accordance with Article 3 of Decision 93/625/EEC;

(ii) within a further month to seek repayment of any sums due that have not already been repaid by the PMU to the French State (together with any interest thereon);

(iii) forthwith to seek repayment of all revenues waived by the French State in respect of the PMU's exemption from employers' contribution to building and construction work in the period between 1 January 1989 and 11 January 1991 together with interest thereon calculated in accordance with Article 3 of Decision 93/625/EEC;

(iv) without prejudice to (iii) above, forthwith to re-examine the complaint lodged on 7 April 1989 in the light of the judgment of the Court and to conclude such re-examination within six months of the date of that judgment;

(c) that the Commission pay the applicant's costs of these proceedings.

Pleas in law and main arguments adduced in support:

In the present case, the plaintiff attacks the Commission's decision relating to the State aid system granted by the French State to the economic interest group Pari Mutuel Urbain ('PMU'), taken on the basis of the same 'State aid complaint' that has been the object of an action of fulfilment in case T-467/93.

The State aid complaint stressed that the monopoly granted to the PMU insulated the PMU from competition in France from undertakings, such as the applicant and the other companies in the Ladbroke Group, engaged in betting in other Member States. At the same time, the privileged position of the PMU in France, together with the grant of State aid by the French State, has enabled the PMU to develop its provison of information on betting services for export to the Member States.

In the attacked decision the Commission held that:

(a) three out of the eight measures identified in the State aid complaint constituted State aid within the meaning of Article 92 (1);

(b) one of those three measures, namely a special derogation from the general VAT rules on deduction of tax had ceased to be a State aid after 1 January 1989;

(c) where such State aid had been granted prior to 1 January 1989 it was compatible with the common market;

(d) the exemption enjoyed by the PMU from the employer's contribution to building and construction work should be abolished forthwith; however repayment was to be sought by France only in respect of the period after 11 January 1991, the amount of aid to be repaid to be quantified by France.

The decision failed altogether to deal with one of the measures of which the applicant had complained, namely the exemption from income tax.

The applicant maintains that the decision is in error in:

(i) misapplying Article 92 (1) in the case of the measures held not to be State aids;

(ii) misapplying Article 92 (3) (c) in the case of the State aids held to be compatible with the common market; and

(iii) limiting repayment of aid in respect of the exemption from the housing levy imposed on employers granted to the PMU to the period from 11 January 1991 and allowing the French State to calculate the amount recoverable on that account;

and that the reasoning of the decision is also defective and so should be annulled on that ground as well.

Action brought on 11 February 1994 by Georgios Rounis against Commission of the European Communities

(Case T-69/94)

(94/C 90/51)

(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 11 February 1994 by Georgios Rounis, residing in Brussels, represented by Jean-Noël Louis and Thierry Demaseure, of the Brussels Bar, with an address for service in Luxembourg at the office of Fiduciaire Myson, 1 rue Glesener, L-1631.

The applicant claims that the Court should:

— declare the application admissible and well founded, and accordingly,

— declare that the decision of 19 July 1988 adopting a new procedure for filling middle-management posts is unlawful,

— annul

— the Commission decision on the drawing up and publication of Vacancy Notices COM/019/93 and COM/050/93,

— the Commission decision setting the post COM/050/93 of Head of Unit IV.D.3, Transport and Tourism, at level A5/A4,

— all the subsequent and/or connected decisions adopted by the Commission as a result of the aforementioned decision and, in particular, the decision to reject the applicant's application, and that relating to D's appointment to that post,

— the Commission's decision to appoint G. D. to the post IV.TF.1. and that rejecting the applicant's application for that post,

— in so far as is necessary, the decision of 8 January 1994 impliedly rejecting the complaint submitted prior to these proceedings,

— order the defendant to pay the costs.

Pleas in law and main arguments adduced in law:

The applicant contests the rejection of his application for the post of Head of Units IV/D/3, Transport and Tourism and IV/TF/1, Operational Unit I, of the Task Force on control of concentration operations between undertakings.

The pleas in law and main arguments are similar to those set out in Cases T-550/93, T-10/94, T-16/94 and all other cases which call in question the new procedure implemented by the Commission with regard to the filling of middle-management posts.

Action brought on 11 February 1994 by M. Huizinga against Council and Commission of the European Communities

(Case T-71/94)

(94/C 90/52)

(Language of the case: Dutch)

An action against the Council and Commission of the European Communities was brought before the Court of First Instance of the European Communities on 11 February 1994 by M. Huizinga, Firdgum (Netherlands), represented by H. J. Bronkhorst, Advocaat bij de Hoge Raad der Nederlanden, and E. H. Pijnacker Hordijk, of the Amsterdam Bar, with an address for service in Luxembourg at the Chambers of L. Frieden, 62 avenue Guillaume.

The applicants claim that the Court should:

— order the Community to pay the applicants a certain sum together with interest at 8 % a year on the principal sum as from 19 May 1992 until the date of full settlement,

— order the Community to pay the applicants damages of such an amount as the Court sees fit but at least the amount resulting from application of Council Regulation (EEC) No 2187/93, together with interest at 8 % a year on the principal sum as from 19 May 1992 until the date of full settlement,

— order the Community to pay the costs.

Pleas in law and main arguments adduced in support:

The pleas in law and main arguments are largely the same as those in Case C-104/89 Mulder v. Council and Commission of the European Communities and Case C-37/90 Heinemann v. Council and Commission of the European Communities.

Action brought on 14 February 1994 by L. G. H. Willems, J. H. Thomassen, J. C. M. van Duijnhoven and five others against Council and Commission of the European Communities

(Case T-73/94)

(94/C 90/53)

(Language of the case: Dutch)

An action against the Council and Commission of the European Communities was brought before the Court of First Instance of the European Communities on 14 February 1994 by L. G. H. Willems, Ulestraten, J. H. Thomassen, Bemelen, J. C. M. van Duijnhoven, Rijkevoort, and five others, represented by H. J. Bronkhorst, Advocaat bij de Hoge Raad der Nederlanden, and E. H. Pijnacker Hordijk, of the Amsterdam Bar, with an address for service in Luxembourg at the Chambers of L. Frieden, 62 avenue Guillaume.

The applicant claims that the Court should:

— order the Community to pay the applicant a certain sum together with interest at 8 % a year on the principal sum as from 19 May 1992 until the date of full settlement,

— order the Community to pay the applicant damages of such an amount as the Court sees fit but at least the amount resulting from application of Council Regulation (EEC) No 2187/93, together with interest at 8 % a year on the principal sum as from 19 May 1992 until the date of full settlement,

— order the Community to pay the costs.

Pleas in law and main arguments adduced in support:

The pleas in law and main arguments are largely the same as those in Case C-104/89 Mulder v. Council and Commission of the European Communities and Case C-37/90 Heinemann v. Council and Commission of the European Communities.

Action brought on 14 February 1994 by J. J. H. van den Broek, G. J. E. van Laar, J. T. Salden and J. A. M. Wouters against Council and Commission of the European Communities

(Case T-74/94)

(94/C 90/54)

(Language of the case: Dutch)

An action against the Council and Commission of the European Communities was brought before the Court of First Instance of the European Communities on 14 February 1994 by J. J. H. van den Broek, Nederweerd Eind, G. J. E. van Laar, Voerendaal, J. T. Salden, Guttecoven, and J. A. M. Wouters, Noorbeek, represented by H. J. Bronkhorst, Advocaat bij de Hoge Raad der Nederlanden, and E. H. Pijnacker Hordijk, of the Amsterdam Bar, with an address for service in Luxembourg at the Chambers of L. Frieden, 62 avenue Guillaume.

The applicants claim that the Court should:

— order the Community to pay the applicants a certain sum together with interest at 8 % a year on the principal sum as from 19 May 1992 until the date of full settlement,

— order the Community to pay the applicants damages of such an amount as the Court sees fit but at least the amount resulting from application of Council Regulation (EEC) No 2187/93, together with interest at 8 % a year on the principal sum as from 19 May 1992 until the date of full settlement,

— order the Community to pay the costs.

Pleas in law and main arguments adduced in support:

The pleas in law and main arguments are largely the same as those in Case C-104/89 Mulder v. Council and Commission of the European Communities and Case C-37/90 Heinemann v. Council and Commission of the European Communities.

Action brought on 14 February 1994 by J. M. F. M. Flamand against Council and Commission of the European Communities

(Case T-75/94)

(94/C 90/55)

(Language of the case: Dutch)

An action against the Council and Commission of the European Communities was brought before the Court of First Instance of the European Communities on 14 February 1994 by J. M. F. M. Flamand, Banholt, represented by H. J. Bronkhorst, Advocaat bij de Hoge Raad der Nederlanden, and E. H. Pijnacker Hordijk, of the Amsterdam Bar, with an address for service in Luxembourg at the Chambers of L. Frieden, 62 avenue Guillaume.

The applicants claim that the Court should:

— order the Community to pay the applicants a certain sum together with interest at 8 % a year on the principal sum as from 19 May 1992 until the date of full settlement,

— order the Community to pay the applicant damages of such an amount as the Court sees fit but at least the amount resulting from application of Council Regulation (EEC) No 2187/93, together with interest at 8 % a year on the principal sum as from 19 May 1992 until the date of full settlement,

— order the Community to pay the costs.

Pleas in law and main arguments adduced in support:

The pleas in law and main arguments are largely the same as those in Case C-104/89 Mulder v. Council and Commission of the European Communities and Case C-37/90 Heinemann v. Council and Commission of the European Communities.

Action brought on 14 February 1994 by R. Jansma against the Council and Commission of the European Communities

(Case T-76/94)

(94/C 90/56)

(Language of the case: Dutch)

An action against the Council and Commission of the European Communities was brought before the Court of First Instance of the European Communities on 14 February 1994 by R. Jansma, Engelbert, represented by H. J. Bronkhorst, Advocaat bij de Hoge Raad der Nederlanden, and E. H. Pijnacker Hordijk, of the Amsterdam Bar, with an address for service in Luxembourg at the Chambers of L. Frieden, 62 avenue Guillaume.

The applicant claims that the Court should:

— order the Community to pay the applicant a certain sum together with interest at 8 % a year on the principal sum as from 19 May 1992 until the date of full settlement,

— order the Community to pay the applicant damages of such an amount as the Court sees fit but at least the amount resulting from application of Council Regulation (EEC) No 2187/93 of 22 July 1993, together with interest at 8 % a year on the principal sum as from 19 May 1992 until the date of full settlement,

— order the Community to pay the costs.

Pleas in law and main arguments adduced in support:

The pleas in law and main arguments are largely the same as those in Case C-104/89 Mulder v. Council and Commission of the European Communities and Case C-37/90 Heinemann v. Council and Commission of the European Communities.

Action brought on 25 February 1994 by J. Bakker, E. Hardeman, G. J. Prins and two others against the Council and Commission of the European Communities

(Case T-86/94)

(94/C 90/57)

(Language of the case: Dutch)

An action against the Council and Commission of the European Communities was brought before the Court of First Instance of the European Communities on 25 February 1994 by J. Bakker, Engelum, E. Hardeman, Lunteren, G. J. Prins, Oldenbroek, and two others, represented by H. J. Bronkhorst, Advocaat bij de Hoge Raad der Nederlanden, and E. H. Pijnacker Hordijk, of the Amsterdam Bar, with an address for service in Luxembourg at the Chambers of L. Frieden, 62 avenue Guillaume.

The applicant claims that the Court should:

— order the Community to pay the applicant a certain sum together with interest at 8 % a year on the principal sum as from 19 May 1992 until the date of full settlement,

— order the Community to pay the applicants damages of such an amount as the Court sees fit but at least the amount resulting from application of Council Regulation (EEC) No 2187/93 of 22 July 1993, together with interest at 8 % a year on the principal sum as from 19 May 1992 until the date of full settlement,

— order the Community to pay the costs.

Pleas in law and main arguments adduced in support:

The pleas in law and main arguments are largely the same as those in Case C-104/89 Mulder v. Council and Commission of the European Communities and Case C-37/90 Heinemann v. Council and Commission of the European Communities.

Action brought on 25 February 1994 by Th. H. Clemens, N. J. G. M. Costongs, W. A. G. Derks and 16 others against the Council and Commission of the European Communities

(Case T-87/94)

(94/C 90/58)

(Language of the case: Dutch)

An action against the Council and Commission of the European Communities was brought before the Court of First Instance of the European Communities on 25 February 1994 by Th. H. Clemens, Aarlanderveen, N. J. G. M. Costongs, Maastricht, W. A. G. Derks, Overasselt and 16 others, represented by H. J. Bronkhorst, Advocaat bij de Hoge Raad der Nederlanden, and E. H. Pijnacker Hordijk, of the Amsterdam Bar, with an address for service in Luxembourg at the Chambers of L. Frieden, 62 avenue Guillaume.

The applicants claim that the Court should:

— order the Community to pay to each applicant a certain sum together with interest at 8 % a year on the principal sum as from 19 May 1992 until the date of full settlement,

— order the Community to pay the applicants damages of such an amount as the Court sees fit but at least the amount resulting from application of Council Regulation (EEC) No 2187/93 of 22 July 1993, together with interest at 8 % a year on the principal sum as from 19 May 1992 until the date of full settlement,

— order the Community to pay the costs.

Pleas in law and main arguments adduced in support:

The pleas in law and main arguments are largely the same as those in Case C-104/89 Mulder v. Council and Commission of the European Communities and Case C-37/90 Heinemann v. Council and Commission of the European Communities.

Action brought on 25 February 1994 by D. Vellema, Mts. J. and K. Visser and H. W. Klanderman against the Council and Commission of the European Communities

(Case T-91/94)

(94/C 90/59)

(Language of the case: Dutch)

An action against the Council and Commission of the European Communities was brought before the Court of First Instance of the European Communities on 25 February 1994 by D. Vellema, Marrum, Mts. J. and K. Visser, Oosterbierum, and H. W. Klanderman, Halle, represented by H. J. Bronkhorst, Advocaat bij de Hoge Raad der Nederlanden, and E. H. Pijnacker Hordijk, of the Amsterdam Bar, with an address for service in Luxembourg at the Chambers of L. Frieden, 62 avenue Guillaume.

The applicants claim that the Court should:

— order the Community to pay the applicants a certain sum together with interest at 8 % a year on the principal sum as from 19 May 1992 until the date of full settlement,

— order the Community to pay the applicants damages of such an amount as the Court sees fit but at least the amount resulting from application of Council Regulation (EEC) No 2187/93 of 22 July 1993, together with interest at 8 % a year on the principal sum as from 19 May 1992 until the date of full settlement,

— order the Community to pay the costs.

Pleas in law and main arguments adduced in support:

The pleas in law and main arguments are largely the same as those in Case C-104/89 Mulder v. Council and Commission of the European Communities and Case C-37/90 Heinemann v. Council and Commission of the European Communities.

Removal from the register of Case T-30/93 [1]

(94/C 90/60)

(Language of the case: French)

By order of 27 January 1994 the President of the Fourth Chamber of the Court of First Instance of the European Communities ordered the removal from the register of Case T-30/93: Jean-Paul Bourjac v. Commission of the European Communities.

[1] OJ No C 158, 10. 6. 1993.

Removal from the register of Case T-74/93 [1]

(94/C 90/61)

(Language of the case: German)

By order of 7 February 1994 the President of the Second Chamber of the Court of First Instance of the European Communities ordered the removal from the register of Case T-74/93: Bernard Große-Brochtrup v. Council of the European Union and Commission of the European Communities.

[1] OJ No C 178, 18. 7. 1990.