Official Journal

of the European Communities

ISSN 0378–6986

C 95

Volume 44

24 March 2001

English edition

Information and Notices

Notice No | Contents | Page

(Continued overleaf)

(Continued overleaf)

EN

(Continued on inside back cover)

I

(Information)

COURT OF JUSTICE

COURT OF JUSTICE

JUDGMENT OF THE COURT

(Fifth Chamber)

of 23 November 2000

in Case C-421/98: Commission of the European Communities v Kingdom of Spain [1]

(Failure by a Member State to fulfil its obligations — Articles 2 and 10 of Directive 85/384/EEC — Restrictions on the exercise of activities as an architect according to the definition of the profession in the Member State in which the relevant qualification was obtained)

(2001/C 95/01)

(Language of the case: Spanish)

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

In Case C-421/98, Commission of the European Communities (Agents: I. Martínez del Peral and M. B. Mongin) v Kingdom of Spain (Agent: M. López-Monís Gallego) — application for a declaration that, by providing, in Article 10(2) of Real Decreto 1081/1989 of 28 August 1989 (*Boletín Oficial del Estado* No 214 of 7 September 1989, p. 28449), that holders of qualifications in architecture awarded by another Member State and recognised under Council Directive 85/384/EEC of 10 June 1985 on the mutual recognition of diplomas, certificates and other evidence of formal qualifications in architecture, including measures to facilitate the effective exercise of the right of establishment and freedom to provide services (OJ 1985 L 223, p. 15) 'may not pursue in Spain activities other than those which they are authorised to pursue in their country of origin on the basis of the qualifications awarded by the latter, unless they collaborate with another member of the profession who is authorised to pursue those activities and who holds a qualification which is likewise recognised under Spanish law', the Kingdom of Spain has failed to fulfil its obligations under Articles 2 and 10 of that directive — the Court (Fifth Chamber), composed of: A. La Pergola, President of the Chamber, D.A.O. Edward (Rapporteur) and P. Jann, Judges, S. Alber, Advocate General; R. Grass, Registrar, has given a judgment on 23 November 2000, in which it:

1. *Declares that, by providing, in Article 10(2) of Real Decreto 1081/1989 of 28 August 1989, that persons holding qualifications in architecture awarded by another Member State and recognised under Council Directive 85/384/EEC of 10 June 1985 on the mutual recognition of diplomas, certificates and other evidence of formal qualifications in architecture, including measures to facilitate the effective exercise of the right of establishment and freedom to provide services, may not pursue in Spain activities other than those which they are authorised to pursue in their country of origin on the basis of the qualifications awarded by the latter, unless they collaborate with another member of the profession who is authorised to pursue those activities and who holds a qualification which is likewise recognised under Spanish law, the Kingdom of Spain has failed to fulfil its obligations under Articles 2 and 10 of that directive;*

2. *Orders the Kingdom of Spain to pay the costs.*

---

[1] OJ C 20 of 23.1.1999.

JUDGMENT OF THE COURT

(Fifth Chamber)

of 30 November 2000

in Case C-195/98 (reference for a preliminary ruling from the Oberster Gerichtshof): Österreichischer Gewerkschaftsbund, Gewerkschaft öffentlicher Dienst v Republik Österreich [1]

(Article 177 of the EC Treaty (now Article 234 EC) — Definition of 'court or tribunal of a Member State' — Freedom of movement for persons — Equal treatment — Seniority — Part of career spent abroad)

(2001/C 95/02)

(Language of the case: German)

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

In Case C-195/98: reference to the Court under Article 177 of the EC Treaty (now Article 234 EC) from the Oberster Gerichtshof (Supreme Court) Austria, for a preliminary ruling in the proceedings pending before that court between Österreichischer Gewerkschaftsbund, Gewerkschaft öffentlicher Dienst and Republik Österreich — on the interpretation of Article 48 of the EC Treaty (now, after amendment, Article 39 EC) and Article 177 of the EC Treaty (now Article 234 EC) and Article 7 of Regulation (EEC) No 1612/68 of the Council of 15 October 1968 on freedom of movement for workers within the Community (OJ, English Special Edition 1968 (II), p. 475) — the Court (Fifth Chamber), composed of: D.A.O. Edward (Rapporteur), acting for the President of the Fifth Chamber, P. Jann and L. Sevón, Judges, F.G. Jacobs, Advocate General; R. Grass, Registrar, has given a judgment on 30 November 2000, in which it has ruled:

1. *In exercising functions such as those provided for by Paragraph 54(2) to (5) of the Arbeits- und Sozialgerichtsgesetz (Law on Labour and Social Courts), the Oberster Gerichtshof constitutes a court or tribunal within the meaning of Article 177 of the EC Treaty (now Article 234 EC).*

2. *Article 48 of the EC Treaty (now, after amendment, Article 39 EC) and 7(1) and (4), of Regulation (EEC) No 1612/68 of the Council of 15 October 1968 on freedom of movement for workers within the Community preclude a national rule such as Paragraph 26 of the Vertragsbedienstetengesetz 1948 (Federal Law on Contractual Public Servants of 1948) concerning the account to be taken of previous periods of service for the purposes of determining the pay of contractual teachers and teaching assistants, where the requirements which apply to periods spent in other Member States are stricter than those applicable to periods spent in comparable institutions of the Member State concerned.*

3. *Where a Member State is obliged to take into account, in calculating the pay of contractual teachers and teaching assistants, periods of employment in certain institutions in other Member States comparable to the Austrian institutions listed in Paragraph 26(2) of the Vertragsbedienstetengesetz 1948, such period must be taken into account without any temporal limitation.*

---

[1] OJ C 234 of 25.7.1998.

JUDGMENT OF THE COURT

(Third Chamber)

of 30 November 2000

in Case C-384/99: Commission of the European Communities v Kingdom of Belgium [1]

(Failure of a Member State to fulfil its obligations — Telecommunications — Interconnection of networks — Interoperability of services — Provision of universal service)

(2001/C 95/03)

(Language of the case: French)

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

In Case C-384/99: Commission of the European Communities (Agent: B. Doherty) v Kingdom of Belgium (Agent: A. Snoecx) — application for a declaration that, by failing correctly to implement Article 5 of Directive 97/33/EC of the European Parliament and of the Council of 30 June 1997 on interconnection in Telecommunications with regard to ensuring universal service and interoperability through application of the principles of Open Network Provision (ONP) (OJ 1997 L 199, p. 32), in conjunction with Annex I thereto, and by failing to adopt all the measures necessary to implement Article 5 of that directive, in conjunction with Annexes I and III thereto, the Kingdom of Belgium has failed to fulfil its obligations under those provisions and under the EC Treaty — the Court (Third Chamber), composed of: C. Gulmann (Rapporteur), President of the Chamber, J.-P. Puissochet and F. Macken, Judges; F.G. Jacobs, Advocate General; R. Grass, Registrar, has given a judgment on 30 November 2000, in which it:

1. *Declares that, by failing to bring into force within the prescribed period the laws, regulations and administrative measures necessary to comply with Article 5 of Directive 97/33/EC of the European Parliament and of the Council of 30 June 1997 on interconnection in Telecommunications with regard to ensuring universal service and interoperability through application of the principles of Open Network Provision (ONP), in conjunction with Annexes I and III thereto, the Kingdom of Belgium has failed to fulfil its obligations under that directive;*

2. *Orders the Kingdom of Belgium to pay the costs.*

---

(1) JO C 6 of 8.1.2000.

JUDGMENT OF THE COURT

(Sixth Chamber)

of 7 December 2000

in Case C-324/98 (reference for a preliminary ruling from the Bundesvergabeamt): Telaustria Verlags GmbH, Telefonadress GmbH v Telekom Austria AG, formerly Post & Telekom Austria AG (1)

(Public service contracts — Directive 92/50/EEC — Public service contracts in the telecommunications sector — Directive 93/38/EEC — Public service concession)

(2001/C 95/04)

(Language of the case: German)

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

In Case C-324/98: reference to the Court under Article 177 of the EC Treaty (now Article 234 EC) from the Bundesvergabeamt (Federal Procurement Office), Austria, for a preliminary ruling in the proceedings pending before that court between Telaustria Verlags GmbH, Telefonadress GmbH and Telekom Austria AG, formerly Post & Telekom Austria AG, joined party; Herold Business Data AG — on the interpretation of Council Directive 92/50/EEC of 18 June 1992 relating to the coordination of procedures for the award of public service contracts (OJ 1992 L 209, p. 1) and of Council Directive 93/38/EEC of 14 June 1993 coordinating the procurement procedures of entities operating in the water, energy, transport and telecommunications sectors (OJ 1993 L 199, p. 84) — the Court (Sixth Chamber), composed of: V. Skouris (Rapporteur), President of the Second Chamber, acting as President of the Sixth Chamber, J.-P. Puissochet and F. Macken, Judges; N. Fennelly, Advocate General; L. Hewlett, Administrator, for the Registrar, has given a judgment on 7 December 2000, in which it has ruled:

1. — *Council Directive 93/38/EEC of 14 June 1993 coordinating the procurement procedures of entities operating in the water, energy, transport and telecommunications sectors covers a contract for pecuniary interest concluded in writing between, on the one hand, an undertaking which is specifically responsible under the legislation of a Member State for operating a telecommunications service and whose capital is wholly held by the public authorities of that State and, on the other, a private undertaking, where under that contract the first undertaking entrusts the second with the production and publication, for the purpose of distribution to the public, of printed and electronically accessible lists of telephone subscribers (telephone directories);*

— *although it is covered by Directive 93/38, such a contract is excluded, under Community law as it stands at present, from the scope of that directive by reason of the fact, in particular, that the consideration provided by the first undertaking to the second consists in the second obtaining the right to exploit for payment its own service.*

2. *Notwithstanding the fact that, as Community law stands at present, such contracts are excluded from the scope of Directive 93/38, the contracting entities concluding them are, none the less, bound to comply with the fundamental rules of the Treaty, in general, and the principle of non-discrimination on the ground of nationality, in particular, that principle implying, in particular, an obligation of transparency in order to enable the contracting authority to satisfy itself that the principle has been complied with.*

3. *That obligation of transparency which is imposed on the contracting authority consists in ensuring, for the benefit of any potential tenderer, a degree of advertising sufficient to enable the services market to be opened up to competition and the impartiality of procurement procedures to be reviewed.*

4. *It is for the national court to rule on the question whether that obligation was complied with in the case in the main proceedings and also to assess the materiality of the evidence produced to that effect.*

---

(1) OJ C 327 of 24.10.1998.

ORDER OF THE COURT

(Second Chamber)

of 19 September 2000

in Case C-89/00 (reference for a preliminary ruling from the Verwaltungsgericht Berlin): Bülent Recep Bicakci and Others v Land Berlin [1]

(Article 104(3) of the Rules of Procedure — Identical question)

(2001/C 95/05)

(Language of the case: German)

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

In Case C-89/00: reference to the Court under Article 234 EC from the Verwaltungsgericht Berlin (Administrative Court, Berlin) for a preliminary ruling in the proceedings pending before that court between Bülent Recep Bicakci, Bedriye Bicakci, Hidajet Kemal Bicakci and Burak Bicakci and Land Berlin — on the interpretation of Article 14(1) of Decision No 1/80 of 19 September 1980 on the development of the Association, adopted by the Association Council established by the Association Agreement between the European Economic Community and Turkey — the Court (Second Chamber), composed of: R. Schintgen (Rapporteur), President of the Second Chamber, V. Skouris and N. Colneric, Judges; J. Mischo, Advocate General; R. Grass, Registrar, has made an order on 19 September 2000 in which it has ruled:

Article 14(1) of Decision No 1/80 of 19 September 1980 on the development of the Association, adopted by the Association Council established by the Association Agreement between the European Economic Community and Turkey is to be interpreted as precluding the expulsion of a Turkish national who enjoys a right granted directly by that decision when it is ordered, following a criminal conviction, as a deterrent to other aliens without the personal conduct of the person concerned giving reason to consider that he will commit other serious offences prejudicial to the requirements of public policy in the host Member State.

(1) OJ No C 149, 27.5.2000.

Action brought on 24 January 2001 by the Commission of the European Communities against the Hellenic Republic

(Case C-33/01)

(2001/C 95/06)

An action against the Hellenic Republic was brought before the Court of Justice of the European Communities on 24 January 2001 by the Commission of the European Communities, represented by Hans Stovlbaek, of its Legal Service, and Panagiotis Panagiotopoulos, a national civil servant on secondment to its Legal Service.

The Commission claims that the Court should:

— declare that, by failing to communicate to the Commission within the time-limit laid down the information required by Article 8(3) of Directive 97/689/EEG, and [1] and by Commission Decision 96/302/EC [2] which is envisaged by that provision, concerning every establishment or undertaking which carries out disposal and/or recovery of hazardous waste, the Hellenic Republic has failed to fulfil its obligations under the Treaty and that directive.

— order the Hellenic Republic to pay the costs.

Pleas in law and main arguments

Article 8(3) of Directive 91/689/EEC imposes en obligation on the Member States to send to the Commission certain information relating to every establishement or undertaking which carries out disposal and/or recovery of hazardous waste.

The Commission states that the Hellenic Republic did not send the information prescribed by that directive within the time-limit laid down (that is to say immediately after the entry into force of Commission Decision 96/302/EC of 17 April 1996 establishing a format in which information is to be provided pursuant to Article 8(3) of Directive 91/689/EEC) and, of course, has not notified the Commission of any changes in that information.

(1) OJ No L 377, 31.12.1991, p. 20.
(2) OJ No L 116, 11.5.1996, p. 26.

Reference for a preliminary ruling form the Kilpailuneuvosto by order of that tribunal of 14 December 2000 in the case of Arkkitehtuuritoimisto Riitta Korhonen Oy, Arkkitehtitoimisto Pentti Toivanen Oy and Rakennuttajatoimisto Vilho Tervomaa v Varkauden Taitotalo Oy

(Case C-18/01)

(2001/C 95/07)

Reference has been made to the Court of Justice of the European Communities by an order of the Kilpailuneuvosto (Competition Council), Finland, of 14 December 2000, which was received at the Court Registry on 16 January 2001, for a preliminary ruling in the case of Arkkitehtuuritoimisto Riitta Korhonen Oy, Arkkitehtitoimisto Pentti Toivanen Oy and Rakennuttajatoimisto Vilho Tervomaa v Varkauden Taitotalo Oy on the following question:

Is a share company which a town owns and in which the town exercises control to be regarded as a contracting authority within the meaning of Article 1(b) of Council Directive 92/50/EEC relating to the coordination of procedures for the award of public service contracts [1], if the company acquires design and project management services for a building project comprising offices to be leased to undertakings?

As a supplementary question, the Kilpailuneuvosto enquires whether it affects the decision on the point that the town's building project endeavours to create the conditions for business activity to be carried on in the town.

As a second supplementary question, the Kilpailuneuvosto enquires whether it affects the decision on the point that the offices to be built are leased to one undertaking only.

---

[1] OJ L 209 of 24.7.1992, p. 1.

Reference for a preliminary ruling by the Hoge Raad der Nederlanden by order of 26 January 2001 in the case of Ansul B.V. and Ajax Brandbeveiliging B.V.

(Case C-40/01)

(2001/C 95/08)

Reference has been made to the Court of Justice of the European Communities by order of 26 January 2001 by the Hoge Raad der Nederlanden (Supreme Court of the Netherlands), which was received at the Court Registry on 31 January 2001, for a preliminary ruling in the case of Ansul B.V. and Ajax Brandbeveiliging B.V. on the following questions:

Must the words 'put to genuine use' in Article 12(1) of Directive 89/104/EEC [1] be interpreted in the manner set out in paragraph 3.4 above [2] and, if the answer is in the negative, on the basis of which (other) criterion must the meaning of 'genuine use' be determined?

Can there be 'genuine use' as referred to above also where no new goods are traded under the trade mark but other activities are engaged in as set out in subparagraphs (v) and (vi) of paragraph 3.1 above [3]?

---

[1] OJ L 40 of 11.2.1989.

[2] The question whether a particular use can be regarded as 'genuine use' can be answered only (i) by taking into consideration all the facts and circumstances specific to the case whereby (ii) the decisive factor is whether all the facts and circumstances specific to the case, when viewed in connection with one another and in the context of what is regarded as usual and commercially justified in the relevant sector of the trade, create the impression that the use serves to find or preserve a market for goods and services under that trade mark and not simply to maintain the trade mark, and whereby (iii) account must generally be taken, as regards these facts and circumstances, of the kind, extent, frequency, regularity and duration of the use in conjunction with the kind of goods or service and the kind and size of the undertaking.

[3] Sale of components and extinguishing compositions for fire-extinguishing apparatus covered by the trade mark MINIMAX to undertakings which maintained similar apparatus. Maintaining, checking, regauging, repairing and overhauling of fire-extinguishing apparatus marked with the trade mark MINIMAX, using stickers bearing the words 'Gebruiksklaar Minimax' (Read for use — Minimax).

Appeal brought on 1 February 2001 by Sandro Cognigni against the order made on 30 November 2000 by the Court of First Instance of the European Communities (First Chamber) in Case T-314/00 Sandro Cognigni vo Commission of the European Communities

(Case C-43/01 P)

(2001/C 95/09)

An appeal has been brought before the Court of Justice of the European Communities on 1 February 2001 by Sandro Cognigni, represented by Walter Massucci, of the Fermo (AP) Bar, having Chambers in Pedaso, 5 Via Giovanni XXIII, against the order made on 30 November 2000 by the Court of First Instance of the European Communities (First Chamber) in Case T-314/00 Sandro Cognigni v Commission of the EC.

The appellant claims that the Court should:

— Set aside the order under appeal and refer the case to the Court having jurisdiction in the matter;

— Order the Commission to pay the costs of the proceedings before both Community Courts.

Pleas in law and main arguments

(1) The legal definition of the action at first instance

Having regard to the action at first instance, and bearing in mind the fact that the formal issue of the legal definition thereof cannot be regarded as precluding the admissibility of an action, it appears permissible to argue that the grounds set out on that point in the order under appeal ought to be censured in their entirety.

(2) The jurisdiction of the Court of First Instance

It is clear that, since this case involves a dispute between a Community institution and the member of a consultative committee established by that institution, the Court of First Instance has jurisdiction to deal with the dispute.

It is further evident that, pursuant to Article 91 of the Staff Regulations applicable to officials and other servants of the European Communities, the Court of Justice has jurisdiction in any dispute between the Community and 'any person to whom these Staff Regulations apply'. Since the Court of First Instance ruled that it lacked jurisdiction in favour of the Court of Justice, the Court of First Instance ought, of its own motion, to have ensured that the application was forwarded to the Court having jurisdiction in the matter.

Action brought on 5 February 2001 by the Commission of the European Communities against Ireland

(Case C-48/01)

(2001/C 95/10)

An action against Ireland was brought before the Court of Justice of the European Communities on 5 February 2001 by the Commission of the European Communities, represented by Ms Nicola Yerrell, Member of its legal Service, acting as agent, with an address for service at the office of Mr Carlos Gómez de la Cruz, also a member of its Legal Service, Centre Wagner, Kirchberg, Luxembourg.

The Applicant requests that the Court should:

— find that Ireland has failed to fulfil its obligations under the EC Treaty by failing to adopt the laws, regulations or administrative provisions necessary to comply with Council Directive 95/63/EC of 5th December 1995 [1] amending Directive 89/655/EEC [2] concerning the minimum safety and health requirements for the use of work equipment by workers at work and/or failing to inform the Commission thereof and

— condemn Ireland to bear the costs of the procedure.

Pleas in law and main arguments

Article 249 EC, under which a directive shall be binding as to the result to be achieved, upon each Member State, carries by implication an obligation on the Member States to observe the period for compliance laid down in the directive. That period expired on 5 December 1998 without Ireland having enacted the provisions necessary to comply with the directive referred to in the conclusions of the Commission.

---

[1] OJ L 335, 30.12.1995, p. 28.
[2] OJ L 393, 30.12.1989, p. 13.

Reference for a preliminary ruling by the Tribunale di Siena, by order of that court of 26 January 2001 in the case of Milena Castellani v Istituto Nazionale della Previdenza Sociale (INPS)

(Case C-50/01)

(2001/C 95/11)

Reference has been made to the Court of Justice of the European Communities by an order of the Tribunale di Siena (District Court, Siena) of 26 January 2001, which was received at the Court Registry on 5 February 2001, for a preliminary ruling in the case of Milena Castellani v Istituto Nazionale della Previdenza Sociale (INPS), on the following questions:

Is the rule precluding aggregation of the accounting value of the special supplementary pay with the payments made to a worker in the reference period (Article 2(4) of Legislative Decree No 80/1992) compatible — *inter alia* in the light of past ruling of the Court of Justice concerning that decree — with EEC Directive 987/80 [1], and in particular:

(1) Can that non-aggregability be regarded as conforming with the purpose of the directive which appears (Article 3(1)) to be to ensure the payment of outstanding claims in respect of wages arising within a specified time span (Article 3(2)) and in respect of a certain period (Article 4(1) and (2))? or

(2) Does that non-aggregability reflect a rule concerning assistance, not conforming with the social criterion on which Directive 987/80 is based?

(3) Does that non-aggregability render the directive inoperative or result in its partial disapplication?

(4) Can that non-aggregability be allowed in the context of the power of the Member States to impose a ceiling on the guarantee of payment of workers' claims (Article 3(4)), having regard to the fact that the Italian legislature has already imposed a ceiling by means of Article 2(2) of the legislative decree at issue?

(5) Consequently, must the reference to the 'maximum amount of the special supplementary pay' in the said Article 2(2) be regarded as being made merely for formal or accounting purposes or is it an incorporative reference (with the consequent inclusion in Legislative Decree No 80/1992 of the provisions giving effect to the special wage supplement, including the so-called non-aggregability rule)?

(6) Finally, may non-aggregability be regarded as allowed in the context of the power of the Member States to adopt the measures necessary to avoid abuses (Article 10(a))?

([1]) Council Directive 80/987 of 20 October 1980 on the approximation of the laws of the Member States relating to the protection of employees in the event of the insolvency of their employer — OJ 1980 L 283, p. 23.

Reference for a preliminary ruling from the Tribunal des Affaires de Sécurité Sociale, Nanterre, France, by judgment of that court of 23 November 2000 in the case of Patricia Inizan v Caisse Primaire d'Assurance Maladie des Hauts de Seine

(Case C-56/01)

(2001/C 95/12)

Reference has been made to the Court of Justice of the European Communities by a judgement of the Tribunal des Affaires de Sécurité Sociale (Social Security Court), Nanterre, of 23 November 2000, which was received at the Court Registry on 9 February 2001, for a preliminary ruling in the case of Patricia Inizan v Caisse Primaire d'Assurance Maladie des Hauts de Seine, on the following question;

'Is Article 22 of Regulation (EEC) No 1408/71 ([1]) compatible with Articles 59 [now, after amendment, Article 49 EC] and 60 [now Article 50 EC] of the Treaty of Rome? Consequently, is the Caisse Primaire d'Assurance Maladie des Hauts de Seine entitled to refuse Ms Inizan reimbursement of the costs of psychosomatic pain treatment in Essen, Germany, following an unfavourable opinion from the National Medical Officer?'

([1]) Council Regulation (EEC) No 1408/71 of 14 June 1971 on the application of social security schemes to employed persons, to self-employed persons and to members of their families moving within the Community (amended and updated version, OJ 1997 L 28, p. 4).

COURT OF FIRST INSTANCE

JUDGMENT OF THE COURT OF FIRST INSTANCE

of 26 October 2000

in Case T-41/96: Bayer AG v Commission of the European Communities [1]

(Competition — Parallel imports — Article 85(1) of the EC Treaty (now Article 81(1) EC) — Meaning of 'agreement between undertakings' — Proof of the existence of an agreement — Market in pharmaceutical products)

(2001/C 95/13)

(Language of the case: German)

In Case T-41/96: Bayer AG,established in Leverkusen (Germany), represented by J. Sedemund, Rechtsanwalt, Cologne, with an address for service in Luxembourg at the Chambers of A. May, 398 Route d'Esch, supported by European Federation of Pharmaceutical Industries' Associations, established in Geneva (Switzerland), represented initially by C. Walker, Solicitor, and subsequently by T. Woodgate, Solicitor, with an address for service in Luxembourg at the Chambers of A. May, 398 Route d'Esch, against Commission of the European Communities (Agents: W. Wils and K. Wiedner) supported by Bundesverband der Arzneimittel-Importeure eV, established in Mülheim an der Ruhr (Germany), represented by W.A. Rehmann and U. Zinsmeister, of the Brussels Bar, with an address for service in Luxembourg at the Chambers of Bonn and Schmitt, 62 Avenue Guillaume — application for the annulment of Commission Decision 96/478/EC of 10 January 1996 relating to a proceeding under Article 85 of the EC Treaty (Case IV/34.279/F3 — Adalat) (OJ 1996 L 201, p. 1) — the Court of First Instance (Fifth Chamber, Extended Composition), composed of: J.D. Cooke, President, R. García-Valdecasas, P. Lindh, J. Pirrung and M. Vilaras, Judges; J. Palacio González, Administrator, for the Registrar, has given a judgment on 26 October 2000, in which it:

1. *Annuls Commission Decision 96/478/EC of 10 January 1996 relating to a proceeding under Article 85 of the EC Treaty (Case IV/34.279/F3 — Adalat);*

2. *Orders the Commission to bear its own costs and to pay the costs incurred by the applicant, including those incurred by the latter in the proceedings for interim relief;*

3. *Orders the European Federation of Pharmaceutical Industries' Associations and the Bundesverband der Arzneimittel-Importeure eV to bear their own costs.*

[1] OJ C 145 of 18.5.96.

JUDGMENT OF THE COURT OF FIRST INSTANCE

of 8 November 2000

in Case T-175/97: Bernard Beyt and Others v Commission of the European Communities [1]

(Officials — Temporary agents — Remuneration — Posting in a third country — Adjustment of weightings — Retroactive effect — Recovery of overpayment)

(2001/C 95/14)

(Language of the case: French)

In Case T-175/97: Bernard Bareyt, Ivone Benfatto, Denis Bessette, Pier Luigi Bruzzone, Giuliano Dalle Carbonare, Enrico Di Pietro, Barry John Green, Remmelt Haange, Ronald Hemsworth, Michel Huguet, Marcus Iseli, Neil Mitchell, Pier Luigi Mondino, Alfredo Portone, Carlo Sborchia, Alessandro Tesini, Mike Michael Wykes, temporary agents of the Commission of the European Communities, all residing in Naka (Japan), and Michel Dupon, temporary agent of the Commission of the European Communities, residing in Tokyo (Japan), represented by Nicolas Lhoëst, of the Brussels Bar, with an address for service in Luxembourg at Fiduciaire Becker and Cahen, 3 Rue des Foyers, against the Commission of the European Communities (Agents: G. Valsesia and F. Clotuche-Duvieusart), supported by Council of the European Union (Agents: P.M. Cossu and T. Blanchet) — application for annulment of all the salary slips of the applicants from May 1996 and for an order requiring the Commission to repay to the applicants the amounts withheld from their salary with effect from June 1996 by way of recovery of amounts overpaid and to pay them the amounts by which their salaries had been reduced as from May 1996 - the Court of First Instance (Second Chamber), composed of J. Pirrung, President, J. Azizi and A. Potocki, Judges; G. Herzig, administrator, for the Registrar, gave a judgment on 8 November 2000, in which it:

1. *dismisses the application;*

2. *orders each of the parties to bear their own costs.*

[1] OJ No C 358 of 21.11.98.

JUDGMENT OF THE COURT OF FIRST INSTANCE

of 29 November 2000

in Case T-213/97: Committee of the Cotton and Allied Textile Industries of the European Union (Eurocoton) and Others v Council of the European Union [1]

(Dumping — Failure by the Council to adopt definitive duties — Action for annulment — Actionable measure — Action for damages)

(2001/C 95/15)

(Language of the case: English)

In Case T-213/97: Committee of the Cotton and Allied Textile Industries of the European Union (Eurocoton), established in Brussels, Belgium, Ettlin Gesellschaft für Spinnerei und Weberei AG, established in Ettlingen, Germany, Textil Hof Weberei GmbH & Co. KG, established in Hof, Germany, H. Hecking Söhne GmbH & Co., established in Stadtlohn, Germany, Spinnweberei Uhingen GmbH, established in Uhingen, Germany, F.A. Kümpers GmbH & Co., established in Rheine, Germany, Tenthorey SA, established in Éloyes, France, Les Tissages des Héritiers de G. Perrin — Groupe Alain Thirion (HPG-GAT Tissages), established in Cornimont, France, Établissements des Fils de Victor Perrin SARL, established in Thiéfosse, France, Filatures et Tissages de Saulxures-sur-Moselotte, established in Saulxures-sur-Moselotte, France, Tissage Mouline Thillot, established in Thillot, France, Tessival SpA, established in Azzano S. Paolo, Italy, Filature Niggeler & Küpfer SpA, established in Capriolo, Italy and Standardtela SpA, established in Milan, Italy, represented by C. Stanbrook, QC, and A. Dashwood, Barrister, with an address for service in Luxembourg at the Chambers of A. Kronshagen, 12 Boulevard de la Foire, against Council of the European Union (Agents: M.A. Santacruz, A. Tanca and S. Marquardt, H.-J. Rabe and G.M. Berrisch), supported by United Kingdom of Great Britain and Northern Ireland, (Agent: J.E. Collins) — application for annulment of the Council's 'decision' not to adopt the proposal for a regulation imposing a definitive anti-dumping duty on imports of unbleached (grey) cotton fabrics originating in the People's Republic of China, Egypt, India, Indonesia, Pakistan and Turkey, (COM(97) 160 final, of 21 April 1997) and for compensation for the damage suffered as a result of that 'decision' — the Court of First Instance (Second Chamber, Extended Composition), composed of: J. Pirrung, President, J. Azizi, A. Potocki, M. Jaeger and A.W.H. Meij, Judges; G. Herzig, Administrator, for the Registrar, has given a judgment on 29 November 2000, in which it:

1. *Dismisses the application.*

2. *Orders the applicants to pay all the costs and the United Kingdom of Great Britain and Northern Ireland to bear its own costs.*

---

(1) OJ C 318 of 18.10.97.

JUDGMENT OF THE COURT OF FIRST INSTANCE

of 8 November 2000

in Case T-158/98: Bernard Beyt and Others v Commission of the European Communities [1]

(Officials — Temporary agents — Posting in a third country — Remuneration — Fixing of a weighting specific to Naka (Japan) — Retroactive effect — Recovery of overpayment)

(2001/C 95/16)

(Language of the case: French)

In Case T-158/98: Bernard Bareyt, Ivone Benfatto, Denis Bessette, Giuliano Dalle Carbonare, Enrico Di Pietro, Barry John Green, Remmelt Haange, Michel Huguet, Marcus Iseli, Cornelis Jorg, Neil Mitchell, Pier Luigi Mondino, Alfredo Portone, Carlo Sborchia, Alessandro Tesini, Mike Michael Wykes, temporary agents of the Commission of the European Communities, all residing in Naka (Japan), represented by Nicolas Lhoëst, of the Brussels Bar, with an address for service in Luxembourg at Fiduciaire Becker and Cahen, 3 Rue des Foyers, against the Commission of the European Communities (Agents: G. Valsesia and F. Clotuche-Duvieusart), supported by Council of the European Union (Agents: C. Strömholm and T. Blanchet) — application for annulment of all the salary slips of the applicants from November 1997 in so far as they apply the specific weighting fixed for Naka by Council Regulation (ECSC, EC, Euratom) No 1785/97 of 11 September 1997 laying down the weightings applicable from 1 January 1997 to the remuneration of officials of the European Communities serving in third countries (OJ 1997 L 254, p. 1), and for an order requiring the Commission to repay to the applicants the amounts withheld from their salary with effect from June 1996 by way of recovery of amounts overpaid and to pay them the difference between the salary calculated on the basis of the weighting for Tokyo (Japan) and that paid to them as from November 1997 on the basis of the specific weighting — the Court of First Instance (Second Chamber), composed of J. Pirrung, President, J. Azizi and A. Potocki, Judges; G. Herzig, administrator, for the Registrar, gave a judgment on 8 November 2000, in which it:

1. *dismisses the application;*

2. *orders each of the parties to bear their own costs.*

(1) OJ No C 358 of 21.11.98.

3. *Orders the Commission to repay to the applicant the sums recovered from her pension, amounting to LUF 181 446;*

4. *Dismisses the remainder of the action;*

5. *Orders the Commission to pay the costs.*

(1) OJ No C 86, 27.3.1999.

JUDGMENT OF THE COURT OF FIRST INSTANCE

of 8 November 2000

in Case T-210/98: E v Commission of the European Communities [1]

(Officials — Dependent child allowance — Double allowance for child affected by mental or physical handicap — Suspension — Recovery of undue payment)

(2001/C 95/17)

(Language of the case: French)

In Case T-210/98: E, a former official of the European Communities, residing in Luxembourg, represented initially by C. Revoldini and subsequently by J. Choucroun, both of the Luxembourg Bar, with an address for service in Luxembourg at the Chambers of the latter, 84 Grand-Rue, against the Commission of the European Communities (Agents: C. Berardis-Kayser, F. Clotuche-Duvieusart and B. Wägenbaur) — applications for the annulment, first, of a Commission decision of 14 July 1998 suspending payment of a double dependent child allowance and retrospectively withdrawing the benefit of the latter for the period from 1 January 1997 until 14 July 1998, and, second, of a Commission decision of 22 July 1998 recovering from the applicant's retirement pension sums totalling LUF 181 446 allegedly paid unduly by way of that allowance, and for an order that the Commission repay to the applicant the amounts withheld from her pension — the Court of First Instance (Second Chamber), composed of J. Pirrung, President of the Chamber, A. Potocki and A.W.H. Meij, Judges; J. Palacio Gonzalez, Administrator, for the Registrar, has given a judgment on 8 November 2000, in which it:

1. *Annuls the Commission decision of 14 July 1998 in so far as it withdraws the grant of the double allowance for a dependent child provided for in Article 67(3) of the Staff Regulations of Officials of the European Communities for the period from 1 January 1997 until 14 July 1998;*

2. *Annuls the Commission decision of 23 July 1998, recovering the sum of LUF 181 446;*

JUDGMENT OF THE COURT OF FIRST INSTANCE

of 26 October 2000

in Joined Cases T-83/99, T-84/99 and T-85/99: Carlo Ripa di Meana and Others v European Parliament [1]

(Members of the European Parliament — Provisional retirement pension scheme — Time-limit for submitting request — Knowledge acquired — Admissibility)

(2001/C 95/18)

(Language of the case: Italian)

In Joined Cases T-83/99, T-84/99 and T-85/99: Carlo Ripa di Meana, former Italian Member of the European Parliament, residing in Montecastello di Vibio (Italy), Leoluca Orlando, former Italian Member of the European Parliament, residing in Palermo (Italy), Gastone Parigi, former Italian Member of the European Parliament, residing in Pordenone (Italy), represented by V. Viscardini Donà, assisted by G. Donà, of the Padua Bar, with an address for service in Luxembourg at the Chambers of E. Arendt, 8-10 Rue Mathias Hardt, against European Parliament (Agents: A. Caiola, G. Ricci and F. Capelli) — application for annulment of the decisions of the European Parliament of 4 February 1999 rejecting the requests submitted by Mr Ripa di Meana, Mr Orlando and Mr Parigi, seeking to obtain retroactive application of the provisional retirement pension scheme referred to in Annex III to the Rules Governing the Payment of Expenses and Allowances to Members of the European Parliament — the Court of First Instance (Fourth Chamber), composed of V. Tiili, President, R.M. Moura Ramos and P. Mengozzi, Judges; G. Herzig, administrator, for the Registrar, gave a judgment on 26 October 2000, in which it:

1. *annuls the decisions of the European Parliament of 4 February 1999 No 300762 and No 300763 rejecting the requests submitted by Mr Ripa di Meana and Mr Orlando for the provisional pension scheme referred to in Annex III to the Rules Governing the Payment of Expenses and Allowances to Members of the European Parliament to apply with retroactive effect;*

2. *dismisses as inadmissible the application in Case T-85/99;*

3. *orders the Parliament to bear its own costs, and to pay those of Mr Ripa di Meana and Mr Orlando, in Cases T-83/99 and T-84/99;*

4. *orders Mr Parigi to bear his own costs, as well as to pay those of the Parliament, in Case T-85/99.*

([1]) OJ No C 160 of 5/6/99.

JUDGMENT OF THE COURT OF FIRST INSTANCE

of 26 September 2000

in Case T-138/99: Luc Verheyden v Commission of the European Communities ([1])

(Officials — Prior administrative complaint — Time-limits — New fact — Promotion — Comparative examination on the merits)

(2001/C 95/19)

(Language of the case: French)

In Case T-138/99: Luc Verheyden, an official of the Commission of the European Communities, residing in Angera (Italy), represented by E. Boigelot, of the Brussels Bar, with an address for service in Luxembourg at the Chambers of L. Schiltz, 2 Rue du Fort Rheinsheim, against Commission of the European Communities (Agents: C. Berardis-Kayser and F. Clotuche-Duvieusart) — application for the annulment of the decision not to promote the applicant to Grade A4 with retroactive effect from 10 October 1989 and of the decision not to promote the applicant in the 1998 promotion exercise, and for compensation for the non-pecuniary damage which he claims to have suffered — the Court of First Instance (Fifth Chamber), composed of: R. García-Valdecasas, President, P. Lindh and J.D. Cooke, Judges; G. Herzig, Administrator, for the Registrar, has given a judgment on 26 October 2000, the operative part of which is as follows:

1. *The application is dismissed;*

2. *Each party shall bear its own costs.*

([1]) OJ C 226 of 7.8.99.

JUDGMENT OF THE COURT OF FIRST INSTANCE

of 21 November 2000

in Case T-214/99: Manuel Tomás Carrasco Benítez v Commission of the European Communities ([1])

(Officials — Recruitment — Access to internal competitions — Competition notice — Condition relating to length of service — Professional experience of the candidate)

(2001/C 95/20)

(Language of the case: French)

In Case T-214/99: Manuel Tomás Carrasco Benítez, an official of the Commission of the European Communities, residing in London, represented by J.-N. Louis, G. Parmentier and V. Peere, of the Brussels Bar, with an address for service in Luxembourg at Société de gestion fiduciaire SARL, 13 Avenue du Bois, against Commission of the European Communities (Agents: J. Currall and D. Waelbroeck) — application for the annulment of the decision of the internal selection boards for competitions COM/T/R/ADM/A/98, COM/R/5179/98, COM/R/5182/98, COM/R/5183/98, COM/R/5188/98 and COM/R/5190/98 not to admit him to those competitions — the Court of First Instance (Third Chamber), composed of K. Lenaerts, President, J. Azizi and M. Jaeger, Judges; J. Palacio González, Administrator, for the Registrar, gave a judgment on 21 November 2000, in which it:

1. *dismisses the application;*

2. *orders each of the parties to bear its own costs.*

([1]) OJ No C 333 of 20/11/99.

JUDGMENT OF THE COURT OF FIRST INSTANCE

of 12 December 2000

in Case T-11/00: Michel Hautem v European Investment Bank ([1])

(Officials — Removal from post — Failure to comply with a judgment annulling a decision — Article 233 EC — Non-contractual liability of the Community — Non-material damage — Compensation)

(2001/C 95/21)

(Language of the case: French)

In Case T-11/00: Michel Hautem, a servant of the European Investment Bank, residing in Schouweiler (Luxembourg), represented by M. Karp and J. Choucroun, of the Luxembourg

Bar, with an address for service in Luxembourg at the Chambers of M. Karp, 84 Grand-Rue, against European Investment Bank (Agents: J.-P. Minnaert and G. Vandersanden) — application for compensation for the non-material damage which the applicant claims to have suffered by reason of the refusal of the European Investment Bank to comply with the judgment of the Court of First Instance of 28 September 1999 in Case T-140/97 Hautem v EIB [1999] ECR-SC I-A-171 and II-897 — the Court of First Instance (Fifth Chamber), composed of: R. García-Valdecasas, President, P. Lindh and J.D. Cooke, Judges; G. Herzig, Administrator, for the Registrar, has given a judgment on 12 December 2000 in which it:

1. *Orders the European Investment Bank to pay to the applicant EUR 25 000 in reparation of the non-material damage which he has incurred;*

2. *Orders the European Investment Bank to pay the costs relating to the main proceedings;*

3. *Orders the European Investment Bank to pay to the cashier of the Court the sum of EUR 3 000, or any lower amount justified by the applicant as expenses relating to the main proceedings;*

4. *Orders each party to bear its own costs in regard to the proceedings for interim measures.*

---

(1) OJ C 79 of 18.3.00.

JUDGMENT OF THE COURT OF FIRST INSTANCE

of 15 November 2000

in Case T-20/00: Ivo Camacho-Fernandes v Commission of the European Communities (1)

(Officials — Occupational disease — Exposure to asbestos and other substances — Irregularity in the opinion of the medical committee — Default procedure)

(2001/C 95/22)

(Language of the case: French)

In Case T-20/00: Ivo Camacho-Fernandes, an official of the Commission of the European Communities, residing in Overijse (Belgium), represented by N. Lhoëst, of the Brussels Bar, with an address for service in Luxembourg at the offices of Fiduciaire Becker & Cahen, 3 Rue des Foyers, against Commission of the European Communities — application for the annulment of the Commission decision of 10 February 1999 refusing to recognise the occupational origin of the lung cancer which resulted in the death of the applicant's wife — the Court of First Instance (First Chamber), composed of: B. Vesterdorf, President, M. Vilaras and N.J. Forwood, Judges; H. Jung, Registrar, has given a judgment on 15 November 2000, the operative part of which is as follows:

1. *The Commission's decision of 10 February 1999 refusing to recognise the occupational origin of the disease suffered by Arlette Fernandes-De Corte is annulled;*

2. *The remainder of the application is dismissed;*

3. *The Commission is ordered to pay the costs.*

---

(1) OJ C 122 of 29.4.00.

JUDGMENT OF THE COURT OF FIRST INSTANCE

of 21 November 2000

in Case T-23/00: A v Commission of the European Communities (1)

(Officials — Criminal conviction by a national court — Disciplinary procedure — Removal from post)

(2001/C 95/23)

(Language of the case: French)

In Case T-23/00: A, a former official of the Commission of the European Communities, represented by L. Vogel, of the Brussels Bar, with an address for service in Luxembourg at the Chambers of C. Kremer, 6 Rue Heinrich Heine, against Commission of the European Communities (Agents: G. Valsesia and J. Currall) — application for the annulment of the Commission's decision of 4 November 1999 rejecting the complaint lodged by the applicant challenging its decision of 23 April 1999 ordering his removal from post and, so far as is necessary, annulment of the opinion delivered by the Disciplinary Board on 30 November 1998 — the Court of First Instance (Third Chamber), composed of: K. Lenaerts, President, J. Azizi and M. Jaeger, Judges; J. Palacio González, Administrator, for the Registrar, has given a judgment on 21 November 2000, the operative part of which is as follows:

1. *The application is dismissed;*

2. *Each party shall bear its own costs.*

---

(1) OJ C 79 of 18.3.00.

ORDER OF THE COURT OF FIRST INSTANCE

of 17 November 2000

in Case T-200/99: Alberto Martinelli v Commission of the European Communities [1]

(Officials — Absence of staff report — Action for damages — Inadmissibility — Implicit rejection of a request not disputed within the time-limits — Express confirmation of that rejection — Damage)

(2001/C 95/24)

(Language of the case: Italian)

In Case T-200/99: Alberto Martinelli, a former official of the Commission of the European Communities, residing in Munich (Germany), represented by G. Marchesini, lawyer with a right of audience before the Corte Suprema di Cassazione, with an address for service in Luxembourg at the Chambers of E. Arendt, 8-10 Rue Mathias Hardt, v Commission of the European Communities (Agents: G. Valsesia and A. Dal Ferro) — application for compensation for the non-material damage allegedly suffered by the applicant as a result of the absence of staff reports for the reference periods 1993-1995 and 1995-1997 — the Court of First Instance (First Chamber), composed of: B. Vesterdorf, President, and M. Vilaras and N.J. Forwood, Judges; H. Jung, Registrar, made an order on 17 November 2000, the operative part of which is as follows:

1. *The action is dismissed;*

2. *The parties are to bear their own costs.*

---

[1] OJ C 333 of 20.11.1999.

ORDER OF THE COURT OF FIRST INSTANCE

of 24 October 2000

in Case T-27/00: Staff Committee of the European Central Bank and Others v European Central Bank (ECB) [1]

(Members of staff of the European Central Bank — Administrative circular — Time-limit for bringing an action — Inadmissibility)

(2001/C 95/25)

(Language of the case: English)

In Case T-27/00: Staff Committee of the European Central Bank, established in Frankfurt am Main, Germany, Johannes Priesemann, member of staff of the ECB, residing in Frankfurt, Germany, Marc van de Velde, member of staff of the ECB, residing in Usingen-Kransberg, Germany, Maria Concetta Cerafogli, member of staff of the ECB, residing in Frankfurt am Main, Germany, represented by N. Pflüger, R. Steiner and S. Mittländer, Rechtsanwälte, Frankfurt am Main, with an address for service in Luxembourg at the office of A. Schiltz, Association Luxembourgeoise des Employés de Banque et d'Assurance, 29 Avenue Monterey, against European Central Bank (ECB) (Agents: C. Zilioli and J.M. Fernández-Martin) — application for annulment, pursuant to Article 236 EC and Article 36 of the Protocol on the Statute of the European System of Central Banks and of the European Central Bank, of Administrative Circular No 11/98 of 12 November 1998 concerning ECB Internet usage policy — the Court of First Instance (Fourth Chamber), composed of: P. Mengozzi, President, V. Tiili and R.M. Moura Ramos, Judges; H. Jung, Registrar, has made an order on 24 October 2000, the operative part of which is as follows:

1. *The application is dismissed as inadmissible.*

2. *The parties shall bear their own costs.*

---

[1] OJ C 135 of 13.5.00.

ORDER OF THE PRESIDENT OF THE COURT OF FIRST INSTANCE

of 19 October 2000

in Case T-141/00 R: Laboratoires Pharmaceutiques Trenker SA v Commission of the European Communities

(Procedure for interim relief — Withdrawal of marketing authorisations for medicinal products for human use which contain the substance 'amfepramone' — Directive 75/319/EEC — Urgency — Balancing of interests)

(2001/C 95/26)

(Language of the case: French)

In Case T-141/00 R: Laboratoires Pharmaceutiques Trenker SA, established in Brussels (Belgium), represented by X. Leurquin and L. Defalque, of the Brussels Bar, with an address for service in Luxembourg at the Chambers of A. Schmitt, 7 Val Sainte-Croix, against Commission of the European Communities (Agents: H. Støvlbæk and B. Wägenbaur) — application for suspension of operation of the Commission decision of 9 March 2000 relating to the withdrawal of marketing authorisations for medicinal products for human use which contain 'amfepramone' [Decision C(2000) 453] — the President of the Court of First Instance has made an order on 19 October 2000, the operature part of which is as follows:

1. *The operation of the decision of the Commission of 9 March 2000 relating to the withdrawal of marketing authorisations for medicinal products for human use which contain amfepramone [C(2000) 453] is suspended in relation to the applicant.*

2. *Costs are reserved.*

ORDER OF THE COURT OF FIRST INSTANCE

of 15 November 2000

in Case T-157/00: Nicole Robert v European Parliament [1]

(Officials — Prior administrative complaint — Time-limits — Action brought prior to rejection of the complaint — Inadmissibility)

(2001/C 95/27)

(Language of the case: French)

In Case T-157/00: Nicole Robert, an official of the European Parliament, residing at Strassen (Luxembourg), represented by A. Lorang, of the Luxembourg Bar, with an address for service in Luxembourg at the latter's Chambers, 2 Rue des Dahlias, v European Parliament (Agents: Y. Pantalis and D. Moore) — application for annulment of the Parliament's decision not to promote the applicant to grade B 1 in the context of the 1999 promotions procedure, and of the decisions promoting other officials in the course of the procedure for that year — the Court of First Instance (Fifth Chamber), composed of: P. Lindh, President, and R. García-Valdecasas and J.D. Cooke, Judges; H. Jung, Registrar, made an order on 15 November 2000, the operative part of which is as follows:

1. *The application is dismissed as inadmissible.*

2. *The parties are to bear their own costs.*

---

[1] OJ C 247 of 26.8.2000.

Action brought on 20 December 2000 by Franz-Martin Wasmeier against the Commission of the European Communities

(Case T-381/00)

(2001/C 95/28)

(Language of the case: German)

An action against the Commission of the European Communities was brought before the Court of First Instance of the European Communities on 20 December 2000 by Franz-Martin Wasmeier, of Munich (Germany), represented by Gerhard Maier, of Messrs Kalaitzis, Türck & Maier, Bernau am Chiemsee (Germany).

The applicant claims that the Court should:

— annul the Commission's decision of 7.9.2000 concerning the applicant's complaint and the Commission's decision of 24.9.1999 concerning his classification in grade A 7;

— order the Commission to adopt a fresh decision concerning the applicant's classification in grade, accompanied by a comprehensive statement of reasons;

— order the Commission to pay the costs.

Pleas in law and main arguments

Having sat an open competition, the applicant was appointed an official of the Commission and classified in grade A 7, step 1. The applicant lodged a complaint against that decision, seeking classification in grade A 6.

The action is directed against the Commission's decision rejecting that complaint. The applicant asserts *inter alia* that:

— the Commission's decision is vitiated by errors in the investigation of the facts and errors of judgment;

— the Commission wrongly failed to carry out a comprehensive assessment of the applicant's qualifications; and

— the principles of the protection of legitimate expectations and of equal treatment have been violated.

Action brought on 27 December 2000 by Campina Melkunie B.V. against the Commission of the European Communities

(Case T-389/00)

(2001/C 95/29)

(Language of the Case: Dutch)

An action against the Commission of the European Communities was brought before the Court of First Instance of the European Communities on 27 December 2000 by Campina Melkunie B.V., established at Rosmalen (Netherlands), represented by Y. Van Gerven, F.P. Louis and R. Van der Vlies, of Messrs Stibbe Simont Monahan Duhot, lawyers, Brussels, with an address for service in Luxembourg at the Chambers of C. Medernach, of Messrs Arendt & Medernach, lawyers, 8-10 Rue Mathias Hardt.

The applicant claims that the Court should:

— annul the Commission's decision of 18 October 2000 refusing access to the correspondence between the Commission and the Belgian authorities, originating from the Commission, and to the documents exchanged and the minutes of meetings with the Belgian authorities or any other party concerned, regarding the dioxin crisis during the period from 3 June to 9 July 1999;

— order the Commission to pay the costs.

Pleas in law and main arguments

— Infringement of Decision 94/90 and of Article 253 EC

The reasons given for the contested decision do not show that the Commission carried out a separate examination of each of the documents requested so as to ascertain whether they related to its inspection and investigation activities or its infringement procedure, or to the coming into existence of its Decisions 1999/368 of 4 June 1999 and 1999/449 of 9 July 1999.

The Commission has failed, contrary to Article 253 EC, to give separate reasons in respect of each individual document as to why the refusal to allow inspection is necessary in order to protect the public interest.

— Infringement of Decision 94/90 and breach of the principle of proportionality, inasmuch as the Commission has not given partial access to the documents.

Action brought on 4 January 2001 by Vereniging Nederlandse Cementindustrie (VNC) against the Commission of the European Communities

(Case T-2/01)

(2001/C 95/30)

(Language of the Case: Dutch)

An action against the Commission of the European Communities was brought before the Court of First Instance of the European Communities on 4 January 2001 by Vereniging Nederlandse Cementindustrie (VNC), established at 's-Hertogenbosch (Netherlands), represented by M.B.W. Biesheuvel, T.M. Snoep and R. Wesseling, of The Hague Bar, with an address for service in Luxembourg at the Chambers of M. Loesch, 11 Rue Goethe.

The applicant claims that the Court should:

— annul the Commission's decision of 23 November 2000 refusing to pay VNC interest on the fine improperly imposed on it;

— order the Commission to pay to VNC interest at the rate of 8,75 %, or at least at an appropriate rate, on 100 000 euro for the period from 3 May 1995 to 23 November 2000, together with interest at the rate of 6,23 % on that sum for the period from 23 November 2000 until payment of the interest by the Commission to VNC;

— order the Commission to pay the costs.

Pleas in law and main arguments

By judgment of 15 March 2000, the Court of First Instance annulled Commission Decision 94/815/EC in so far as that decision imposed a fine on the applicant. On 23 November 2000 the Commission transferred the amount of the fine paid by the applicant to a bank account maintained by the applicant, but not the interest demanded by the applicant.

The applicant advances the following pleas in support of its application for annulment:

Infringement of Article 233 EC: by not paying interest on the amount of the fine, the Commission failed to take the necessary measures to comply with the judgment.

Infringement of the general principles of proper administration: in so far as the Commission differentiates between undertakings which pay the fine and undertakings which instead provide a bank guarantee, it contravenes general principles of proper administration, namely the principle of equal treatment, the duty of care and the principle of proportionality.

Infringement of the right to put forward a proper defence: if an undertaking on which the Commission has wrongly imposed a fine is not entitled to claim lost interest, it is in effect not in a position to mount a full defence against decisions wrongly addressed to it by the Commission.

Unjustified enrichment.

Since there exists no generally applicable rate of interest, the applicant bases its calculation of the interest on the percentage charged by the Commission when fixing the amount to be paid by undertakings which have delayed paying a justified fine.

Action brought on 4 January 2001 by Eerste Nederlandse Cement Industrie (ENCI) NV against the Commission of the European Communities

(Case T-3/01)

(2001/C 95/31)

(Language of the Case: Dutch)

An action against the Commission of the European Communities was brought before the Court of First Instance of the European Communities on 4 January 2001 by Eerste Nederlandse Cement Industrie (ENCI) NV, established at 's-Hertogenbosch (Netherlands), represented by M.B.W. Biesheuvel and R. Wesseling, of The Hague Bar, with an address for service in Luxembourg at the Chambers of M. Loesch, 11 Rue Goethe.

The applicant claims that the Court should:

— annul the Commission's decision of 23 November 2000 refusing to pay ENCI interest on the fine improperly imposed on it;

— order the Commission to pay to ENCI interest at the rate of 8,75 %, or at least at an appropriate rate, on 7 316 000 euro for the period from 3 May 1995 to 23 November 2000, together with interest at the rate of 6,23 % on that sum for the period from 23 November 2000 until payment of the interest by the Commission to ENCI;

— order the Commission to pay the costs.

Pleas in law and main arguments

The pleas in law and main arguments are the same as in Case T-2/01.

Action brought on 4 January 2001 by Istituto Nazionale Istruzione Professionale Agricola — I.N.I.P.A. and Others against Commission of the European Communities

(Case T-5/01)

(2001/C 95/32)

(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 January 2001 by the Istituto Nazionale Istruzione Professionale Agricola — I.N.I.P.A. and Others, represented by Giovanni Pesce and Filippo Brunetti, with an address for service in Luxembourg.

The applicants claim that the Court should:

— uphold the application and order the defendant to pay the costs.

Pleas in law and main arguments

The present application is directed against the decision contained in the letter dated 27 October 2000 (D13118), signed by the Director General of the European Commission, Directorate-General for Health and Consumer Protection, by which the applicant consortium of undertakings was informed that they had been excluded from the tendering procedure relating to the information campaign on food safety in Member States for 2000 and 2001.

The rejection at issue is based on the lack of evidence of:

— at least three years' of experience in cooperation with a consumer organisation; and

— ability to involve the consumer organisations in the campaign.

In support of its arguments, the applicant consortium alleges:

— Error of fact and absolute lack of statement of reasons. First, the need to involve consumer organisations was not provided for in the invitation to tender and, secondly, evidence of the requisite experience had been submitted.

— Internal inconsistency of the decision and misuse of powers. In a communication dated 14 September 2000, sent by the Commission to the participants in the tendering procedure, it was stated that not only had the applicant consortium's offer been selected, that is to say its tender been accepted, it had also been awarded the contract in which it was interested.

— Breach of the terms of the tender and invalidity on grounds of incompetence. The applicants state in this respect that the Director General who signed the contested decision was not, under the terms of the tender, the person competent to carry out all the communications relating to the tendering procedure and to adopt the relevant measures, and that the contested letter confuses selection criteria, for the purposes of participating in the tendering procedure, and grounds for exclusion from the tendering procedure itself.

Action brought on 12 January 2001 by Norman Pyres against the Commission of the European Communities

(Case T-7/01)

(2001/C 95/33)

(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 12 January 2001 by Norman Pyres (Swan Residence, rue Ph. Baucq, 100, Belgium), represented by Georges Vandersanden and Laure Levi, of De Backer, Brussels.

The applicant claims that the Court should:

— annul the decision of the Commission of 22 January 2000 extending the Appellant's contract of employment only until 30 July 2000, so for a further period limited to six months, and, if necessary, annul the decision of the Commission of 6 October 2000 rejecting the Appellant's complaint;

— condemn the Commission to pay damages provisionally evaluated at 1 Euro for the prejudice suffered;

— condemn the Commission to pay the costs.

Pleas in law and main arguments

The applicant entered into a three-year contract of employment with the Authority Empowered to Conclude Contracts of Employment (AECCE), which contract was renewable for a further year.

Despite allegedly favourable opinions expressed in the applicant's last performance report, the AECCE decided only to extend the applicant's contract for six months.

The applicant seeks the annulment of this decision and submits that the AECCE's decision violated the obligation to state reasons contained in Article 25 of the Staff Regulations. As all three-year contracts of temporary staff were allegedly extended, except for the one of the applicant, a limit of six months for the extension of the applicant's contract constitutes an infringement of the principle of non-discrimination and goes clearly against the interest of the service.

Furthermore, the applicant alleges that the decision infringes Article 26 of the Staff Regulation and violates his rights to defence, and that it constitutes a misuse of powers.

Action brought on 19 January 2001 by Michael Becker against the European Court of Auditors

(Case T-9/01)

(2001/C 95/34)

(Language of the case: German)

An action against the European Court of Auditors was brought before the Court of First Instance of the European Communities on 19 January 2001 by Michael Becker, of Luxembourg, represented by Roy Nathan, lawyer.

The applicant claims that the Court should:

— order the defendant to withdraw its decision of 13 November 2000;

— order the defendant to pay all the costs.

Pleas in law and main arguments

The applicant was injured in two serious road-traffic accidents. Following his initial treatment, the applicant applied for unpaid leave; that application was granted pursuant to Article 40 of the Staff Regulations, initially for a period of one year.

Whilst on leave, the applicant applied to be retired on health grounds. The defendant refused that application, since the applicant had at his own request been granted leave on personal grounds, and could not therefore show that he was performing the duties corresponding to a post.

The applicant asserts that the question as to whether or not the criteria laid down by Article 78 of the Staff Regulations are fulfilled is to be determined on the basis of expert medical reports, and that the determination of that question cannot depend on whether the applicant was, at the relevant time, on leave on personal grounds. Consequently, the defendant is wrong to believe that it has any margin of discretion as regards the carrying- out an administrative/technical assessment of the circumstances.

Action brought on 22 January 2001 by Catherine Mascetti against Commission of the European Communities

(Case T-11/01)

(2001/C 95/35)

(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 22 January 2001 by Catherine Mascetti, represented by Bruno Nascimbene and Massimo Condinanzi, Avvocati, with an address for service in Luxembourg.

The applicant claims that the Court should:

— Annul the decision of the Commission of 28 September 2000 rejecting the complaint lodged by the applicant on 28 March 2000 under No 166/2000;

— Order the Commission to pay the costs.

Pleas in law and main arguments

The present action is directed against the decision of 28 September 2000, by which the authority competent to conclude staff contracts rejected the applicant's complaint lodged under No 166/2000, seeking confirmation that her employment relationship with the Commission was for an indefinite period under a temporary staff contract pursuant to Article 2(d) of the Conditions of Employment of other Servants (CES).

The applicant points out in this respect that she was engaged by the defendant on 16 October 1996 as a member of the auxiliary staff. Subsequently, the applicant and the Commission agreed to add a clause providing for the extension of the contract until 15 October 2000, giving a total duration of 3 years. The contract was not subsequently renewed.

According to the applicant, the Commission's intention of not offering employment relationships to temporary agents in excess of 3 years is evident from the fact that the Commission chose to abolish posts in respect of which it had published vacancy notices and for which the applicant herself had applied.

In support of her arguments, the applicant alleges:

— Breach of the principle of good administration and infringement of Articles 3 and 5 of the CES for having unlawfully classified the applicant as an auxiliary agent.

— Infringement of Articles 8 et seq. and 47 of the CES.

— Infringement of the decision of the Commission of 19 January 1996 on a New Policy for Research Staff (NPRS).

— Breach of the principles of legality and of legitimate expectations.

— Unlawfulness of the NPRS as contrary to the CES and to the principle of non-discrimination.

— Unlawfulness of the NPRS for failure to consult the Staff Regulations Committee.

Action brought on 22 January 2001 by Cristina Ascatigno Battistella against Commission of the European Communities

(Case T-12/01)

(2001/C 95/36)

(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 22 January 2001 by Cristina Ascatigno Battistella represented by Bruno Nascimbene and Massimo Condinanzi, Avvocati, with an address for service in Luxembourg.

The applicant claims that the Court should:

— Annul the decision of the Commission of 28 September 2000 rejecting the complaint lodged by the applicant on 28 March 2000 under No 170/2000;

— Order the Commission to pay the costs.

Pleas in law and main arguments

The pleas in law and main arguments are the same as though in Case T-11/01 Maschetti v Commission [1].

[1] Not yet published in the OJ.

Action brought on 22 January 2001 by Daniele Riva against Commission of the European Communities

(Case T-13/01)

(2001/C 95/37)

(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 22 January 2001 by Daniele Riva represented by Bruno Nascimbene and Massimo Condinanzi, Avvocati, with an address for service in Luxembourg.

The applicant claims that the Court should:

— Annul the decision of the Commission of 28 September 2000 rejecting the complaint lodged by the applicant on 28 March 2000 under No 168/2000;

— Order the Commission to pay the costs.

Pleas in law and main arguments

The pleas in law and main arguments are the same as though in Case T-11/01 Maschetti v Commission [1].

[1] Not yet published in the OJ.

Action brought on 22 January 2001 by Fiorenzo Rizzello against Commission of the European Communities

(Case T-14/01)

(2001/C 95/38)

(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 22 January 2001 by Fiorenzo Rizzello represented by Bruno Nascimbene and Massimo Condinanzi, Avvocati, with an address for service in Luxembourg.

The applicant claims that the Court should:

— Annul the decision of the Commission of 28 September 2000 rejecting the complaint lodged by the applicant on 28 March 2000 under No 167/2000;

— Order the Commission to pay the costs.

Pleas in law and main arguments

The pleas in law and main arguments are the same as though in Case T-11/01 Maschetti v Commission [1].

[1] Not yet published in the OJ.

Action brought on 22 January 2001 by Stefano Benini against Commission of the European Communities

(Case T-15/01)

(2001/C 95/39)

(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 22 January 2001 by Stefano Benini represented by Bruno Nascimbene and Massimo Condinanzi, Avvocati, with an address for service in Luxembourg.

The applicant claims that the Court should:

— Annul the decision of the Commission of 28 September 2000 rejecting the complaint lodged by the applicant on 28 March 2000 under No 169/2000;

— Order the Commission to pay the costs.

Pleas in law and main arguments

The pleas in law and main arguments are the same as though in Case T-11/01 Maschetti v Commission [1].

[1] Not yet published in the OJ.

Action brought on 24 January 2001 by Georgios Rounis against Commission of the European Communities

(Case T-17/01)

(2001/C 95/40)

(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 24 January 2001 by Georgios Rounis, residing in Brussels, represented by Eric Boigelot, avocat, with an address for service in Luxembourg.

The applicant claims that the Court should:

— annul the decision taken by the appointing authority in its memorandum of 24 February 2000 to continue to transfer part of his remuneration but at a rate of only 19 % of his net monthly salary, instead of 35 %;

— annul the decision of the Heads of Administration No 102/84 approved by them at the 149th meeting of 6 April 1984, inasmuch as it allows the appointing authority to limit its transfer to 19 % in place of 35 %;

— order the defendant to pay the applicant a provisional sum of EUR 5 000 in respect of damages to be assessed subsequently together with default interest, by way of damages for the financial injury caused to him;

— order the defendant to pay the costs.

Pleas in law and main arguments

The applicant, an official working for the Commission in Brussels, purchased residential property in London. The purchase was partly financed by a mortgage in the United Kingdom repayable on a monthly basis over 10 years.

Accordingly, the applicant requested a transfer to the United Kingdom of 35 % of his net monthly salary under Article 17(2) of Annex VII to the Staff Regulations.

The Commission limited the transfer to a ceiling of 19 % on the ground that such a ceiling was applicable, by analogy, pursuant to Decision No 102/84 of the Heads of Administration. The applicant claims that that limitation is unlawful and that it does not comply with either the Staff Regulations or the joint rules fixing the detailed rules relating to the transfer of part of the salary.

The applicant also claims that the appointing authority infringed Articles 62 and 63 of the Staff Regulations and that its decision, based on grounds which are both legally and factually incorrect, discriminates against the applicant by comparison with other officials in the same situation.

Action brought on 26 January 2001 by Eugene Emile Marie Kimman against Commission of the European Communities

(Case T-23/01)

(2001/C 95/41)

(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 26 January 2001 by Eugene Emile Marie Kimman, residing in Overijse (Belgium), represented by Nicolas Lhoëst, avocat, with an address for service in Luxembourg.

The applicant claims that the Court should:

— annul the decision of the Commission of 25 May 2000 in so far as it reduces the applicant's annual leave for 2000 by one day;

— order the defendant to pay the costs.

Pleas in law and main arguments

The applicant, who at the material time was serving with the Commission Delegation in Latvia, contests the decision of the appointing authority to reduce by one day her annual leave allowance for 2000. That decision was purportedly based on the fact that the delegation in question was closed for 7 days instead of the 6 days provided for in the Commission's decision of 17 July 1997.

In support of her claims, the applicant alleges:

— Unlawfulness of the Commission's decision of 17 July 1997 restricting to 6 days per year the maximum number of days on which the offices of the Delegation of the External Services may be closed, inasmuch as it fails to observe the principle of equality as between officials.

— Infringement of the special Commission Decision of 21 December 1998 laying down the number of official holidays for 1999.

— Infringement of Article 60 of the Staff Regulations.

Action brought on 30 January 2001 by Claire Staelen against European Parliament and Council of the European Union

(Case T-24/01)

(2001/C 95/42)

(Language of the case: French)

An action against the European Parliament and the Council of the European Union was brought before the Court of First Instance of the European Communities on 30 January 2001 by Claire Staelen, residing in Bridel (Luxembourg), represented by Joëlle Choucroun, avocat, with an address for service in Luxembourg.

The applicant claims that the Court should:

— annul the entire marking procedure in respect of the written tests for the competition or annul the decision of the selection board for competition Eur/151/98 awarding the applicant, for the written test, a mark which did not allow her to be included in the reserve list;

— in the alternative, order the Parliament and the Council to pay to the applicant EUR 12 000 in respect of the non-material damage caused;

— order the defendants to pay the costs.

Pleas in law and main arguments

The applicant in the present case was admitted to Competition EUR/151/98 designed to draw up a list of eligible persons to be held in reserve for recruitment as French-language administrators.

She claims in the respect to have learnt that the selection board had changed the minimum number of points required to pass the first two written, thus increasing the number of candidates who initially passed those two tests without that decision being justified by a small number of candidates having obtained the requisite number of points. That irregularity significantly distorted the final result of the competition.

In support of her claims, the applicant alleges absence of or insufficient reasons given by the selection board for changing the criteria for marking the tests in question by reducing the averages for the points to be obtained for those tests, contrary to Article 5 of Annex 3 to the Staff Regulations.

Removal from the Register of Case T-19/00 [1]

(2001/C 95/43)

(Language of the case: French)

By order of 20 November 2000, the President of the Third Chamber of the Court of First Instance of the European Communities has ordered the removal from the Register of Case T-19/00, Jean Demaeght and Others v Court of Justice of the European Communities.

[1] OJ C 135 of 13.5.00.

Removal from the Register of Case T-72/00 [1]

(2001/C 95/44)

(Language of the case: French)

By order of 10 November 2000, the President of the Third Chamber of the Court of First Instance of the European Communities has ordered the removal from the Register of Case T-72/00, Steffen Skovmand v Commission of the European Communities.

[1] OJ C 135 of 13.5.00.

Removal from the Register of Case T-143/00 [1]

(2001/C 95/45)

(Language of the case: French)

By order of 14 November 2000, the President of the Fourth Chamber of the Court of First Instance of the European Communities has ordered the removal from the Register of Case T-143/00, Sylvia Haupt v Commission of the European Communities.

[1] OJ C 211 of 22.7.00.

Removal from the Register of Case T-237/00 R

(2001/C 95/46)

(Language of the case: French)

By order of 9 October 2000, the President of the Court of First Instance of the European Communities has ordered the removal from the Register of Case T-237/00 R, Patrick Reynolds v European Parliament.