Reference for a preliminary ruling by the Polimeles Protodikio Athinou by judgment of that court of 30 June 1986 in the case of Andrianou-Gizinou Cotton Producers Group & Co., Thebes, EGA v. Greek State, in the person of the Minister for Finance

(Case 8/87)

(87/C 44/06)

Reference has been made to the Court of Justice of the European Communities by a judgment of the Polimeles Protodikio Athinon [Court of First Instance, Athens] of 30 June 1986, which was received at the Court Registry on 15 January 1987, for a preliminary ruling in the case of Andrianou-Gizinou Cotton Producers Group & Co., Thebes, EGA v. Greek State, in the person of the Minister for Finance, on the following questions:

1. Pursuant to Articles 4 and 5 of Regulation (EEC) No 389/82, are Member States under an obligation to grant aid to recognized producer groups in respect of investments made within the framework of the objectives of those provisions, in so far as such investments have been approved and included in the annual economic aid programme of the Member State?

2. Once an investment has been approved and included in a Member State's economic aid programme and has been carried out by an approved producer group, may that Member State, on the basis of the same provisions in conjunction with the intent of the aforementioned regulation, after the selection and to the detriment of a group which is not organized on a cooperative basis, grant such aid to another group which is organized on a cooperative basis?

Action brought on 21 January 1987 by Erica Zeyen (née Heyl) against the Commission of the European Communities

(Case 12/87)

(87/C 44/07)

An action against the Commission of the European Communities was brought before the Court of Justice of the European Communities on 21 January 1987 by Erica Zeyen (née Heyl), residing in La Tronche (France), represented by Jean-Noël Louis of the Brussels Bar, with an address for service in Luxembourg at the Chambers of Yvette Hamilius, avocat, with a right of audience before the Cour d'Appel, 11 boulevard Royal.

The applicant claims that the Court should:

1. Declare the application admissible and well founded;

2. Consequently, annul the decision adopted on 25 March 1986 by the Director-General of the Joint Research Centre at Ispra, requiring the applicant to resign with effect from 1 April 1986, and, to the extent necessary, the implied rejection of the complaint through official channels submitted by the applicant on 18 June 1986 under Article 90 (2) of the Staff Regulations;

3. Order the defendant to reinstate the applicant in the first post corresponding to her grade which falls vacant in her category or service, in accordance with Article 40 (4) (d) of the Staff Regulations, with effect from 5 January 1979 both in regard to seniority in grade and step and in regard to the pension scheme, and to pay to her the amounts equivalent to the remuneration which she would have received between 5 January 1979 and the actual date of reinstatement, less the net professional income received during that period, with interest at 8 % per annum from the day on which the said amounts would have been paid if the applicant had been reinstated in accordance with the provisions of the Staff Regulations;

4. In the alternative, before deciding on the substance of the case, order the defendant to make available to the applicant all vacancy notices published since 5 January 1979 in order to permit her to prove that a great many posts fulfilling the conditions laid down in Article 40 (4) (d) fell vacant and were not offered to her;

5. Order the defendant to pay the costs, either under Article 69 (2) or under the second paragraph of Article 69 (3) of the Rules of Procedure, and the expenses necessarily incurred for the purposes of the proceedings, in particular the costs of establishing an address for service, travel and subsistence expenses and the remuneration of a lawyer, pursuant to Article 73 (b) thereof.

Contentions and main arguments adduced in support:

1. Breach of the second paragraph of Article 49 of the Staff Regulations: the appointing authority never heard the applicant.

2. Breach of Article 40 (4) (d) of the Staff Regulations: first, the administration did not offer to reinstate the applicant in the first post which fell vacant. Secondly, with regard to the offers of employment made by the administration, the validity of the first offer cannot be

maintained, since after being reinstated at Ispra, the applicant intended to apply for a transfer to Luxembourg and the second corresponds neither to the applicant's grade nor to her capacities. In any event, the applicant did not refuse that post.

3. Breach of the principle of good faith: the applicant's complaints here are based on inconsistencies in the administration's conduct.

4. Failure to observe the duty of care: as soon as the applicant confirmed her wish to be reinstated in Luxembourg, the administration should have ascertained whether a post was vacant there before offering her another post at Ispra. In adopting that attitude, the administration manifestly failed to observe its duty of care towards its officials. The same failure is to be found in its interpretation of the applicant's justifiable requests for information as a refusal to accept the post.

Action brought on 22 January 1987 by Thyssen Stahl Aktiengesellschaft against the Commission of the European Communities

(Case 13/87)

(87/C 44/08)

An action against the Commission of the European Communities was brought before the Court of Justice of the European Communities on 22 January 1987 by Thyssen Stahl Aktiengesellschaft, Postfach 11 05 61, D-4100 Duisburg, represented by Deringer, Tessin, Herrmann and Sedemund, Rechtsanwälte, 14 Heumarkt, D-5000 Cologne 1, with an address for service in Luxembourg at the Chambers of Jacques Loesch, avocat, 8 rue Zithe.

The applicant claims that the Court should:

1. Declare void the Commission's individual Decision No 12073 of 4 December 1986 which was notified to the applicant on 16 December 1986;

2. Order the defendant to pay the costs.

Contentions and main arguments adduced in support:

By the contested decision the Commission rejected the applicant's application under Article 15 (3) of Decision No 3485/85/ECSC [1] for the transfer to products of categories Ia and Ib of the reference figures corresponding to its hot-galvanizing plant in Bruckhausen which it had closed down.

Article 1 of Decision No 3524/86/ECSC [2], which excludes the application of Article 15 (3) of Decision No 3485/85/ECSC to any closures in respect of products of category Ic and upon which the contested decision is based, is unlawful since it is contrary to the prohibition of the retrospective effect of legislation and to the principle of the protection of legitimate expectations in so far as it affects situations which have already become final and withdraws compensation which has already been 'earned' by closures.

In addition, the application of Article 1 of Decision No 3524/86/ECSC to the applicant is contrary to the prohibition of discrimination since, even after the publication of Decision No 3524/86/ECSC, the Commission authorized the undertaking Usinor to transfer reference figures for products of category Ic to products of other categories subject to quotas; the actual timing of the application cannot justify the difference in treatment of the applications since that factor is irrelevant in the light of the objective and purpose of the rules.

[1] OJ No L 340, 18. 12. 1985, p. 5.
[2] OJ No L 325, 20. 11. 1986, p. 35.

Action brought on 23 January 1987 by Eugène L. Rijnoudt against the Commission of the European Communities

(Case 17/87)

(87/C 44/09)

An action against the Commission of the European Communities was brought before the Court of Justice of the European Communities on 23 January 1987 by Eugène L. Rijnoudt, residing at Brussels, represented by Georges Vandersanden of the Bar of Brussels, with an address for serivce in Luxembourg at the Chambers of Jeannot Biver, 8 rue Zithe.

The applicant claims that the Court should:

1. Declare the action admissible;

2. Consequently, annul the decision of 20 February 1986 of the Chairman of the Central Staff Committee appointing members and alternate members of the Joint Committee, and in so far as is necessary annul the decision of the Commission of 15 October 1986 rejecting the applicant's complaint;

3. Order the defendant to pay the costs.

Contentions and main arguments adduced in support:

1. Breach of the principle of proportional appointment; manifest error of assessment:

   The coalition in the Central Staff Committee of the US and the SFIE has taken a decision which disregards the principle of proportional appointment and therefore displays a manifest error of assessment inasmuch as it deprives the FFPE of its entitlement to a representative on the Joint Committee in accordance with the votes obtained by it.