

The opinion of the Medical Committee cannot be in accordance with the draft decision of the European Parliament (as required by Article 23 (2) for the official to be required to pay the fees and incidental expenses of the doctor chosen by him and half of the fees and incidental expenses of the third doctor) if the applicant has not been notified of such a draft decision.

Alternatively, even if the Medical Committee is of the opinion that there is no occupational disease it nevertheless accepts that the accident which the applicant was seeking to have recognized and for which he was claiming compensation did occur in the course of his employment.

2. Failure to state reasons

The contested decision, which replaces and amends that of 7 July 1986, does not state reasons for the amendment.

It cannot be denied that the decision adversely affects the applicant and consequently that the Parliament was required to state reasons for the decision under the provisions of the Staff Regulations and established case-law of the Court.

3. Infringement of the principle of legitimate expectations and sound administration

The Parliament *of its own motion* summoned the Medical Committee pursuant to Article 23 (2) of the aforementioned rules. It follows that the Parliament must pay all the costs of the Medical Committee which it summoned and the fees of the three doctors appointed as a result of the Parliament's action.

Action brought on 3 June 1987 by A. Nowak and Others against the Commission of the European Communities

(Case 163/87)

(87/C 181/13)

An Action against the Commission of the European Communities was brought before the Court of Justice of the European Communities on 3 June 1987 by A. Nowak, K. Slavin, M.-D. Bartlett, M. Brusati, O. Buc, D. Caut, D. Carre, P. Chuilon, S. Corti, M. Guillet, J. Plancoulaine, R. Thomas, F. Sand, B. Viaccoz, E. Usselmann, T. Winkel, M. Paco-Düchs, E. Lazzaro, J. Schreibmaier, B. Bignaux, L. Nickesson, J. Removille, J.-L. Bonnerue, D. Nassi, H. Panissié, P. Presle, D. Düchs, N. Gottardi, J.-W. Zwart, R. Simonini, H.-R.

Duquesnoy, I. Piacentini, J.-P. Nijman, A. Reichnau, K. Grabenstätter, J.-L. Martin, C. Froger, L. Galbiati, G.-H. Deschamps, T. Raimondi, A. Skinstad, S. Papastergiou, S. McLaughlin, H. Buttgereit, P.-L. Mondino, P. Nielsen, M. Malacarne, J.-Y. Simon, L. Rasmussen, E. Källne, M. O'Casey, M. Huguet, K. Selin, J. Kallne, M. Hugon, A. Taroni, C. Rosenquist, G. Dalle-Carbonare, J. Ryan, R. Herzog, C. Mayaux, L. Byrne, A. Goede, M. Schmid, D. Kausch, B. Green, M. Gammelin, E. Van Der Goot, P. Murray, L. Zanneli, V. Marchese, G. Bosia, H. Jensen, G. Israel, G. Marcon, A. Russel, J. McMahon, A. Moissonnier, W. Obert, T. Hellsten, I. Borch, J. Hemmerich and G. O'Hara, all officials or members of the temporary staff of the Commission of the European Communities serving with the Joint European Torus (JET) Joint Undertaking at Culham (United Kingdom), represented by Alexandre Vandencastele and Denis Waelbroeck, of the Brussels Bar, acting jointly or separately, with an address for service in Luxembourg at the Chambers of Ernest Arendt, 34 Rue Philippe II.

The applicants claim that the Court should:

- Declare the application admissible,
- Annul their salary statements in so far as the weighting applied to the remuneration fails to meet the requirements of Article 64 of the Staff Regulations either in regard to the amount of the adjustment of the weighting factor or its retroactive effect, and annul the decisions rejecting the applicants' complaints,
- In the exercise of its unlimited jurisdiction, declare that the applicants are owed additional remuneration for the period from 1 January 1981 taking account of the actual cost of living in the United Kingdom, and order the Commission to calculate and pay that additional amount, subject to the decision of the Court if the parties are unable to agree,
- Declare that the amounts to be paid should bear either default interest or compensatory interest at 15 % with effect from 1 January 1981,
- In the alternative, declare that the Commission is guilty of the wrongful conduct indicated in the application and therefore order it to pay damages in the amount referred to above, plus 15 % interest from 1 January 1981,
- Order the Commission to pay the costs.

Submission and main arguments adduced in support

By failing to adapt the applicants' remuneration to the living conditions of their place of employment with effect from 1 January 1981, the Commission has infringed Article 64 of the Staff Regulations, the Council's decision of 15 December 1981 and the general principles of equal treatment, the protection of vested rights and the protection of legitimate expectation. That failure also constitutes a breach of the duty of assistance under Article 24 of the Staff Regulations and of the principle of sound administration. Consequently, the applicants are owed since that date additional remuneration taking account of the actual cost of living in the United Kingdom, plus default interest.

Action brought on 4 June 1987 by Luciano Simonella against the Commission of the European Communities

(Case 164/87)

(87/C 181/14)

An action against the Commission of the European Communities was brought before the Court of Justice of the European Communities on 4 June 1987 by Luciano Simonella, residing in Luxembourg, represented by Carlo Revoldini of the Luxembourg Bar, with an address for service in Luxembourg at the Chambers of Beissel and Revoldini, 21 Rue Aldringen.

The applicant claims that the Court should:

— Declare the action admissible,

In regard to the substance of the case:

- Declare that the conditions of the competition infringe Article 1 (1) (e) of Annex III to the Staff Regulations of Officials,
- Declare that there is an infringement of Article 27 of the Staff Regulations inasmuch as there is a legitimate suspicion that the members of the selection board took account of criteria which are purely geographical in nature and which concern the place of origin of the candidates,

Consequently:

- Annul internal competition No COM/A/8/84, held for the purpose of constituting a reserve list, or,

In the alternative:

- Annul the decision of the selection board of 17 June 1986,
- Order the defendant to pay the costs.

Contentions and main arguments adduced in support

1. Infringement of Article 1 (1) (e) of Annex III to the Staff Regulations of Officials

According to the abovementioned Article, marks must be awarded in respect of qualifications as well as on the basis of the tests. The competition notice for competition No COM/A/8/84 contains only a single indication concerning the final oral test. The applicant is totally unaware of the criteria on which the three tests he took were assessed, with the result that there is a manifest infringement of the legislative provisions and the competition should therefore be annulled.

2. Manifest infringement of the principle of equality and impartiality

The conduct of the competition gives rise to a legitimate suspicion that the selection board based its decision on criteria dictated by geographical considerations (residence of the candidate in Brussels or Luxembourg), something which is expressly prohibited by the Staff Regulations, or by the fact that the candidate works in a department of an institution of the European Communities 'frowned on' in the context of Competition No COM/A/8/84.

Reference for a preliminary ruling by the College van Beroep voor het Bedrijfsleven, The Hague, by judgment of that court of 5 June 1987 in the case of Trouw en Co BV Nederland, Putten, v. Hoofdprodukschap voor Akkerbouwprodukten, The Hague

(Case 182/87)

(87/C 181/15)

Reference has been made to the Court of Justice of the European Communities by a judgment of the College van Beroep voor het Bedrijfsleven (administrative court of last instance in matters of trade and industry) of 5 June 1987, which was received at the Court Registry on 10 June 1987, for a preliminary ruling in the case of Trouw en Co BV Nederland v. Hoofdprodukschap voor Akkerbouwprodukten (Central Board for Agricultural Products) on the following question:

'Must Article 1 (5) and Article 4 (1) (a) of Regulation (EEC) No 1725/79, read in conjunction with each other, be construed as meaning that the actual quantities of skimmed-milk powder per 100 kilograms of the finished product should be multiplied by a coefficient of 0,9 and that the result of that multiplication should be between 60 and 70 kilograms?'