

Communities on 23 August 1989 by the Commission of the European Communities, represented by Sergio Fabro, a member of its Legal Department, acting as agent, with an address for service in Luxembourg at the office of Georgios Kremis, Wagner Centre, Kirchberg.

The applicant claims that the Court should:

- Declare that, by persisting in its failure to implement Council Directive 78/546/EEC of 12 June 1978 on statistical returns in respect of carriage of goods by road, as part of regional statistics, in disregard of the judgment of the Court of Justice of 11 July 1985 (Case 101/84⁽¹⁾), the Italian Republic has failed to fulfil its obligations under Article 171 of the EEC Treaty;
- Order the Italian Republic to pay the costs.

Contentions and main arguments adduced in support:

Pursuant to Article 171 of the EEC Treaty, the Italian Republic should, following the judgment in Case 101/84, have taken the measures necessary to bring to an end the breach of the obligations incumbent on it under the Treaty by implementing the Directive concerned.

⁽¹⁾ OJ No C 200, 8. 8. 1985, p. 7.

Action brought on 28 August 1989 by Jean-Louis Burban against the European Parliament

(Case 267/89)

(89/C. 254/10)

An action against the European Parliament was brought before the Court of Justice of the European Communities on 28 August 1989 by Jean-Louis Burban, of 29 rue Mazarine, 75006 Paris, represented by Jean-Noël Louis, of the Brussels Bar, with an address for service in Luxembourg at the Chambers of Yvette Hamilius, 11 boulevard Royal, Luxembourg.

The applicant claims that the Court should:

- Declare the application admissible and well founded;
- Consequently, annul:
 - The decision of 3 July 1989 of the Selection Board in Open Competition PE/44/A not to admit him to the competition;

- All further decisions taken by the Selection Board and in particular the decision determining the list of suitable candidates and any decision of the defendant based on such decisions;
- In the alternative, the Selection Board's decision of 15 May 1989 refusing to admit him, on the first occasion, to the competition;
- Order the defendant to pay the costs, either under Article 69 (2) or under the second subparagraph of Article 69 (3) of the Rules of Procedure, and the expenses necessarily incurred for the purpose of the proceedings, in particular those relating to the address for service, travel and subsistence expenses and the remuneration of lawyers, pursuant to Article 73 (b) of the said Rules.

Contentions and main arguments adduced in support:

In support of his application, the applicant alleges:

- Breach of the duty to safeguard the interests of officials and the principle of proper administration; it is clear from the case-law of the Court that, by virtue of the duty to safeguard the interests of officials and the principle of proper administration, a Selection Board is required to apply, in the interests of the candidates, the second paragraph of Article 2 of Annex III to the Staff Regulations. Consequently, the applicant should have been authorized to furnish any additional documents or information, particularly since he was misled by the administration itself which did not see fit to draw his attention to the need to lodge the documents in question, even though the prescribed period had not expired.
- Infringement of Article 2 of Annex III to the Staff Regulations: the provision in the notice of competition precluding the production of additional documents after the period prescribed for the lodgment of applications is contrary to the second paragraph of Article 2 of Annex III to the Staff Regulations and is therefore unlawful. It follows that the contested decisions, which are based on that provision, are also unlawful.
- Infringement of Article 25 of the Staff Regulations: the statement of the grounds on which the decision of 3 July was based does not enable either the applicant or the Court to verify the reasons for the Selection Board's decision excluding the applicant and more particularly the reasons for the refusal to authorize the applicant to lodge the requisite documents, having regard to the circumstances of the case. It must be annulled, therefore, by virtue of its inadequate statement of grounds.