

COURT OF JUSTICE

COURT OF JUSTICE

JUDGMENT OF THE COURT

(Second Chamber)

of 18 March 1993

in Case C-35/92 P: European Parliament v. Erik Dan Frederiksen ⁽¹⁾

(Official — Annulment of a promotion decision — Appeal)

(93/C 105/07)

(Language of the case: French)

(Provisional translation; the definitive translation will be published in the Reports of Cases before the Court)

In Case C-35/92 P: European Parliament (Agent: J. Campinos, assisted by D. Petersheim) — appeal against the judgment of the Court of First Instance (Fourth Chamber) of 11 December 1991 in Case T-169/89 Erik Dan Frederiksen v. European Parliament, seeking to have that judgment set aside and the action brought in the Court of First Instance by Mr. Frederiksen dismissed, the other party to the proceedings being Erik Dan Frederiksen, an official of the European Parliament, represented by G. Vandersanden, of the Brussels Bar, with an address for service in Luxembourg at the Chambers of A. Schmitt, 62, avenue Guillaume, who contends that the appeal be dismissed and that the European Parliament be ordered to compensate the respondent for non material damage — the Court (Second Chamber), composed of J. L. Murray, President of the Chamber, G. F. Mancini and F. A. Schockweiler, Judges; W. Van Gerven, Advocate-General; J.-G. Giraud, Registrar, gave a judgment on 18 March 1993, the operative part of which is as follows:

1. *The appeal is dismissed as unfounded;*
2. *The counterclaim is dismissed as inadmissible;*
3. *The European Parliament is ordered to pay the costs including the costs of the application for interim measures.*

⁽¹⁾ OJ No C 61, 10. 3. 1992.
OJ No C 113, 1. 5. 1992.

JUDGMENT OF THE COURT

(Fifth Chamber)

of 24 March 1993

in Case C-313/90: Comité International de la Rayonne et des Fibres Synthétiques and others v. Commission of the European Communities ⁽¹⁾

(State aid — Requirement of prior notification)

(93/C 105/08)

(Language of the case: French)

(Provisional translation; the definitive translation will be published in the Reports of Cases before the Court)

In Case C-313/90: Comité International de la Rayonne et des Fibres Synthétiques, an association established under French law, whose registered office is in Paris, and others, represented by Michel Waelbroeck and Alexandre Vandencastele, of the Brussels Bar, with an address for service in Luxembourg at the Chambers of E. Arendt, 8-10, rue Mathias Hardt, against Commission of the European Communities (Agents: T. Cusack and M. Nolin), supported by the French Republic (Agents: Edwige Belliard and Géraud de Bergues), Allied Signal Inc., a company incorporated under American law, whose registered office is in Morristown, New Jersey (United States) and Allied Signal Fibers Europe SA, a company incorporated under French law, whose registered office is in Paris, represented by Jacques Ferry and Alain Piquemal, of the Paris Bar, with an address for service in Luxembourg at the Chambers of Gaston Vogel, 9, rue Pierre D'Aspelt — application for a declaration that the Commission decision of 1 August 1990, whereby the Commission stated that there was no obligation of prior notification of the aid granted to Allied Signal by the French Government for the establishment of a high-resistance polyester yarn unit in the Longwy region and that it considered the nature and level of that aid to be satisfactory and, in so far as is necessary, the letter from Sir Leon Brittan, Vice President of the Commission, of 4 October 1990 confirming the position adopted — the Court (Fifth Chamber), composed of G. C. Rodríguez Iglesias, President of the Chamber, M. Zuleeg, R. Joliet, J. C. Moitinho de Almeida and D. A. O. Edward, Judges; C. O. Lenz, Advocate-General; J.-G. Giraud, Registrar, gave a judgment on 24 March 1993, the operative part of which is as follows:

⁽¹⁾ OJ No C 299, 28. 11. 1990.
OJ No C 153, 11. 6. 1991.

1. *The Commission decision refusing to initiate the procedure provided for in Article 93 (2) of the EEC Treaty in relation to aid granted by the French Republic to Allied Signal and notified to the CIRFS by letter dated 1 August 1990 is declared void;*
2. *The Commission is ordered to pay the costs, save the costs of the interim proceedings, which the applicants are ordered to pay.*

Action brought on 12 March 1993 by the European Parliament against the Council of the European Communities

(Case C-65/93)

(93/C 105/09)

An action against the Council of the European Communities was brought before the Court of Justice of the European Communities by the European Parliament, represented by Jorge Campinos, assisted by Christian Pennera and Kieran Bradley, acting as Agents, with an address for service in Luxembourg at the Secretariat of the European Parliament, Plateau du Kirchberg.

The European Parliament claims that the Court should:

- annul Council Regulation (EEC) No 3917/92 of 21 December 1992 ⁽¹⁾ extending into 1993 the application of Regulations (EEC) No 3831/90 ⁽²⁾, (EEC) No 3832/90 ⁽³⁾, (EEC) No 3833/90 ⁽⁴⁾, (EEC) No

3834/90 ⁽⁵⁾, (EEC) No 3835/90 ⁽⁶⁾ and (EEC) No 3900/91 ⁽⁷⁾ applying generalized tariff preferences for 1991 in respect of certain products originating in developing countries, and adding to the list of beneficiaries of such preferences,

- order the defendant to pay the costs.

Pleas in law and main arguments adduced in support:

Disregard of the obligation of consultation pursuant to Article 43 of the EEC Treaty: the Council cannot validly adopt a legislative measure based on Article 43 without having the Parliament's opinion. The Council cannot draw any conclusions damaging to the Parliament's position as an institution solely from the fact that a consultative opinion has not been given within the time desired by the Council. Nor can the Council invoke the risk of a 'legal vacuum' which could 'seriously harm the Community's relations with the developing countries as well as the interests of economic operators', since that 'vacuum' is due to the conduct of the Council itself, which had adopted a measure subject to a time limit.

Disregard of Article 5 of the EEC Treaty and of the principle of cooperation in good faith between institutions: the proposal on which the European Parliament's opinion was requested went much further than a simple renewal of the earlier system. Furthermore, the Council must be aware that the Parliament is carrying out its functions under particularly difficult material constraints, due in particular to its dispersal in three places of work and to the fact that it is using a hemicycle available to it on only a very limited basis.

⁽¹⁾ OJ No L 396, 31. 12. 1992, p. 1.

⁽²⁾ OJ No L 370, 31. 12. 1990, p. 1.

⁽³⁾ OJ No L 370, 31. 12. 1990, p. 39.

⁽⁴⁾ OJ No L 370, 31. 12. 1990, p. 86.

⁽⁵⁾ OJ No L 370, 31. 12. 1990, p. 121.

⁽⁶⁾ OJ No L 370, 31. 12. 1990, p. 126.

⁽⁷⁾ OJ No L 368, 31. 12. 1991, p. 11.