

**ORDER OF THE PRESIDENT
OF THE COURT OF FIRST INSTANCE**

of 11 March 1994

**in Case T-56/94 R: Raffaele de Santis v. Commission of the
European Communities**
(94/C 120/45)

(Language of the case: French)

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

In Case T-56/94 R: Raffaele de Santis, an official of the Commission of the European Communities, residing in Brussels, represented by Jean-Noël Louis and Véronique Leclercq, of the Brussels Bar, with an address for service in Luxembourg at the offices of Fiduciaire Myson Sàrl, 1 Rue Glesener, v. Commission of the European Communities (Agent: Gianluigi Valsesia) — application for suspension of the procedure for filling the post of Head of Unit VI.D.1 'Milk products' of the Commission initiated by the publication of Vacancy Notice No 44 of 16 December 1993 — the President of the Court of First Instance made an order on 11 March 1994, the operative part of which is as follows:

1. *the application for interim measures is dismissed;*
2. *the costs are reserved.*

**Action brought on 23 February 1994 by Bundesverband der
Bilanzbuchhalter eV against the Commission of the
European Communities**

(Case T-84/94)
(94/C 120/46)

(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 23 February 1994 by the Bundesverband der Bilanzbuchhalter eV (Federal Association of Accountants) of Bonn, represented by Dr Joachim Müller (Rechtsanwalt) of 11 Briener Strasse, Munich, Federal Republic of Germany.

The applicant claims that the Court should:

- annul the Commission's decision of 14 December 1993, notified to the applicant on 17 December 1993, for breach of Article 155 of the EEC Treaty and of Article 3 of Council Regulation (EEC) No 17/62 in conjunction with Articles 5, 59, 90 (1) and 86 of the EEC Treaty.

Pleas in law and main arguments adduced in support:

The action is brought in respect of the Commission's refusal to act, under Article 155 of the EEC Treaty in conjunction with Article 169, and under Article 3 of Regulation (EEC)

No 17/62 and Articles 90 (1) and 86 of the EEC Treaty, against the provisions of the German Steuerberatungsgesetz (Tax Advisory Law).

The applicant's complaint, rejected by the Commission, concerned the provisions of paragraphs 1 and 3 of the German Steuerberatungsgesetz, whereby privileged professional groups were given an exclusive right to provide services in the area of tax law. The members of the applicant organization and accountants from all Member States were thereby prevented from providing services and excluded from competition, in breach of the freedom to provide services laid down by Article 59 of the EEC Treaty, and of the competition rules in Articles 86 and 90.

By failing to take action, the Commission is in breach of its duty under Article 155 of the EEC Treaty, has misused its powers, and has infringed Article 3 of Regulation (EEC) No 17/62.

**Action brought on 23 February 1994 by Eugénio Branco
Lda against the Commission of the European
Communities**

(Case T-85/94)
(94/C 120/47)

(Language of the case: Portuguese)

An action against the Commission of the European Communities was brought before the Court of First Instance of the European Communities on 23 February 1994 by Eugénio Branco Lda, a limited liability trading company, whose registered office is at 9, Rua Rodrigo da Fonseca, Lisbon, represented by Bolota Belchior, of the Porto Bar, whose chambers are at 885/2, Avenida da República, Vila Nova de Gaia, with an address for service in Luxembourg at the Chambers of Jacques Schroeder of Faltz et Associés, 6, Rue Heine, Luxembourg.

The applicant claims that the Court should:

- annul the decision of the Commission notified to the applicant on 17 December 1993,
- order the Commission to pay the costs.

Pleas in law and main arguments adduced in support:

The applicant, a Portuguese 'sociedade de responsabilidade limitada' (limited liability company) which organized and put into operation a vocational training programme for higher management staff, challenges the Commission's refusal to declare eligible for the European Social Fund certain expenditure in connection with that training programme.

The applicant alleges in the first place that Article 190 of the Treaty had been infringed since the contested decision does

not state any reasons which would enable the applicant to understand the grounds for the refusal.

The applicant maintains that the decision in question infringes the applicable rules since, first, the Portuguese state was not asked to submit observations, contrary to the provisions of Article 6 of Council Regulation (EEC) No 2950/83 and, secondly, the applicant had scrupulously complied with all the administrative requirements laid down in both the Regulation and Council Decision 83/516/EEC.

The applicant claims that its acquired rights, as well as the principles of the protection of legitimate expectations, legal certainty and proportionality, had been breached by virtue of the fact that the Commission, when it adopted the decision in question, reduced by half the contribution initially approved by the European Social Fund.

Action brought on 1 March 1994 by Michael Becker against the Court of Auditors of the European Communities

(Case T-93/94)

(94/C 120/48)

(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 1 March 1994 by Michael Becker, represented by Roy Nathan, Rechtsanwalt, with an address for service in Luxembourg at his Chambers at 18 Rue de Glacis.

The applicant claims that the Court should:

- order the Court of Auditors to revoke the notice of 2 December 1993 and to re-classify the applicant in the grade in application of Article 32, as amended by Council Regulation (EEC, Euratom, ECSC) No 3947/92 of 21 December 1992;
- order the Court of Auditors to pay the entire costs.

Pleas in law and main arguments adduced in support:

On 1 September 1981 the applicant entered the defendant's employment as a member of the temporary staff in Grade A4. He was classified as from 17 October 1983 as a member of the temporary staff in Grade A7, Step 3. Following a competition he was appointed an official on 18 October 1984. As from that date he was again classified in Grade A7, Step 3.

His request, after the amendment of Article 32 of the Staff Regulations by Regulation No 3947/92 of 21 December 1992, for a review of his classification in the step was

rejected by letter dated 2 June 1993; on 2 December 1993 the complaint which he submitted against it was likewise rejected. The applicant challenges that rejection with his action.

The applicant alleges infringement of the principle of equality pursuant to Article 5 (3) of the Staff Regulations. In the Court of Auditors there is unequal treatment of officials who were classified in step after the application of the new version of Article 32. As a result of his new classification on appointment as an official he finds himself, in spite of his 18 years experience in Category A, only in Step 3. In contrast to the Court of Auditors the appointing authorities of the Court of Justice and Commission in fulfilment of their duty to have regard to the welfare of their staff have drawn the right conclusion from the new version of Article 32 that the steps of all officials affected should be reviewed as a matter of course and improved. The defendant's administrative practice is contrary to the view that classification in step may be undertaken only once, namely on the official's recruitment.

The applicant furthermore alleges disregard of the duty to have regard for the welfare of staff. The defendant did not sufficiently take account of the applicant's interests in its decision and did not weigh the interests as required.

Action brought on 9 March 1994 by Dimitrios Coussios against the Commission of the European Communities

(Case T-97/94)

(94/C 120/49)

(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 9 March 1994 by Dimitrios Coussios, residing in Brussels, represented by Georges A. Sakellaropoulos, of the Athens bar, with an address for service in Luxembourg at the Chambers of Aloyse May, 31 Grand-Rue.

The applicant claims that the Court should:

- declare void and of no effect the Commission's implicit rejection of the applicant's complaint of 11 August 1993,
- declare void and of no effect the staff report drawn up by the appointing authority for the period from 1 July 1989 to 30 June 1991,
- order the Commission to draw up a new staff report for that period,
- order the Commission to pay the applicant the equivalent of three years' salary by way of damages for