

ORDER OF THE COURT (Sixth Chamber)
3 December 1992 *

In Case C-44/92,

Association of Independent Officials for the Defence of the European Civil Service/Association des Fonctionnaires Indépendants pour la Défense de la Fonction Publique Européenne (TAO/AFI), established in Brussels, represented by L. Govaert, of the Brussels Bar, with an address for service in Luxembourg at the Chambers of L. Dupong, 14A Rue des Bains,

applicant,

v

Commission of the European Communities, represented by G. Valsesia, Principal Legal Adviser, and S. van Raepenbusch, of the Legal Service, acting as Agents, with an address for service in Luxembourg at the office of R. Hayder, representing the Legal Service, Wagner Centre, Kirchberg,

defendant,

supported by

Union Syndicale-Bruxelles, represented by J.-N. Louis, of the Brussels Bar, with an address for service in Luxembourg at the Chambers of Fiduciaire Myson SARL, 1 Rue Glesener,

intervener,

APPLICATION for an order requiring the Commission to ensure that decisions concerning appointments of representatives to staff committees are made collegially and that proportionality is observed, and to establish and draw up a hierarchy of the various committees and sub-committees,

* Language of the case: French.

THE COURT (Sixth Chamber),

composed of: C. N. Kakouris, President of the Chamber, G. F. Mancini, F. A. Schockweiler, M. Diez de Velasco and P. J. G. Kapteyn, Judges,

Advocate General: F. G. Jacobs,
Registrar: J.-G. Giraud,

after hearing the Advocate General,

makes the following

Order

- 1 On 17 September 1991 George White, an official of the Commission of the European Communities, and the Association of Independent Officials for the Defence of the European Civil Service (TAO/AFI) brought an action against the Commission before the Court of First Instance of the European Communities.
- 2 Mr White rests his case on Articles 90 and 91 of the Staff Regulations of Officials of the European Communities, while the TAO/AFI rests its case on Article 173 of the EEC Treaty. On 13 December 1991 the Union Syndicale-Bruxelles applied for leave to intervene in support of the form of order sought by the defendant.
- 3 The action brought by Mr White and the TAO/AFI seeks primarily an order requiring the Commission to ensure that decisions regarding the appointment of representatives to the staff committees are taken collegially, not arbitrarily or unilaterally, and that proportionality is scrupulously observed, and to establish and

draw up a hierarchy of the various committees and sub-committees; secondly it seeks an order that the Commission pay George White damages assessed *ex aequo et bono* at BFR 250 000 and the TAO/AFI damages assessed *ex aequo et bono* at BFR 1 500 000.

4 The case raises questions relating to the organization of the European civil service and in particular the representation of staff in committees set up under the institution's Staff Regulations and in its administrative committees.

5 Since the Court of First Instance considered it had no jurisdiction to hear an action brought under Article 173 of the EEC Treaty, it referred the action, inasmuch as it had been brought by the TAO/AFI, and the application of the Union Syndicale, inasmuch as it related to the action by the TAO/AFI, to the Court of Justice by order of 27 January 1992.

6 Pursuant to Article 92(1) of the Rules of Procedure, where the action is manifestly inadmissible, the Court may, by reasoned order, after hearing the Advocate General and without taking further steps in the proceedings, give a decision on the action.

The claim relating to the duties of the Commission

7 The TAO/AFI seeks an order from the Court requiring the Commission to ensure that decisions relating to the appointment of representatives to the staff committees should be taken collegially, not arbitrarily or unilaterally, and that proportionality should be scrupulously observed, and secondly to establish and draw up a hierarchy of the various committees and sub-committees.

8 It is settled case-law that it is not for the Court to issue orders to the Community administration. It follows that the TAO/AFI's second claim must be declared inadmissible.

The claim for damages

- 9 The TAO/AFI seeks an order requiring the Commission to pay the sum of BFR 1 500 000 by way of damages. In support of that claim, the application makes no reference to Article 178 and the second paragraph of Article 215 of the Treaty but merely states that ‘as regards the TAO/AFI, its intervention in support of Mr White is based on Article 173’.
- 10 It must be borne in mind that, according to Article 38(1)(c) of the Rules of Procedure, the application must state the subject-matter of the proceedings and a summary of the pleas in law on which the application is based.
- 11 In its application, however, the applicant has confined itself to putting forward a claim for damages without specifying with a sufficient degree of precision whether and in what manner all the conditions for obtaining compensation in respect of the damage allegedly suffered have been satisfied.
- 12 It follows that the TAO/AFI’s claim for damages must be rejected as inadmissible. Consequently there is no need to make an order on the application by the Union Syndicale-Bruxelles for leave to intervene.

Costs

- 13 Under Article 69(2) of the Rules of Procedure, the unsuccessful party is to be ordered to pay the costs. Since the applicant has been unsuccessful, it must be ordered to pay the costs.

On those grounds,

THE COURT (Sixth Chamber)

hereby:

1. Dismisses the application as inadmissible.
2. Orders the applicant to pay the costs.

Luxembourg, 3 December 1992.

J.-G. Giraud

Registrar

C. N. Kakouris

President of the Sixth Chamber