

12 March 1990, for a preliminary ruling in the case of Polysar Investments Netherlands BV, Arnhem, v. Inspecteur der Invoerrechten en Accijnzen [Inspector of Customs and Excise], Arnhem, on the following questions:

1. (a) must a holding company whose activities are concerned solely with the holding of shares in subsidiary companies be regarded as a taxable person within the meaning of Articles 4 and 17 of the Sixth Directive on the harmonization of the laws of the Member States relating to turnover taxes?
- (b) if Question 1 (a) must be answered in the negative, is there liability to tax if the holding company forms a link in and an integrated part of a world-wide concern which in the main outwardly appears under a single name, the group name?
2. (a) if a holding company must be considered to be a taxable person, are the activities engaged in by it as such transactions within the meaning of Article 13 B (d) 5 of the aforesaid Directive, so that they must be considered to be services exempt from

turnover tax and the turnover tax charged by third parties in this regard is not eligible for deduction?

- (b) if the questions contained in 2 (a) are answered in the affirmative, must the answer be different if according to EEC criteria the services supplied by the concern to which the holding company belongs as such are exclusively taxable within the meaning of the Sixth Directive?

Removal from the Register of Case C-191/86 (1)

(90/C 101/10)

By order of 6 February 1990 the Court of Justice of the European Communities ordered the removal from the Register of Case C-191/86: Tokyo Electric Co. Limited (TEC) v. Council of the European Communities.

(1) OJ No C 215, 26. 8. 1986.

COURT OF FIRST INSTANCE

Action brought on 13 March 1990 by N. M. S. against the Commission of the European Communities

(Case T-13/90)

(90/C 101/11)

An action against the Commission of the European Communities was brought on 13 March 1990 by N. M. S., resident in ... (Portugal), represented by Thierry Demaseure, Michel Deruyver and Gérard Collin, of the Brussels Bar, with an address for service in Luxembourg at the Chambers of Y. Hamilius, 7-11 route d'Esch.

The applicant claims that the Court should:

1. order the Commission to pay the sum of ten million in damages;
2. in the alternative, annul the Commission's express decision — notified by registered letter of 28 November 1989 — rejecting the complaint he lodged on 8 September 1989 in order to obtain compensation for damage suffered;
3. order the defendant to pay all the costs of the case and the essential expenses incurred in connexion with the proceedings.

Contentions and main arguments adduced in support

The applicant claims that he suffered damage due to the Commission's refusal to engage him on the grounds that he was allegedly medically unfit, a decision which is already the subject of an application for annulment (1) and which was adopted not only on the basis of a manifest diagnostic error but also in breach of the right of everyone to respect for his private life. The applicant considers that he is entitled to compensation from the Commission for both the material and the non-material damage he suffered as a result of the wrong which the Commission committed in his regard.

(1) OJ No C 216, 22. 8. 1989.

Action brought on 21 March 1990 by Claude Tahir against the Commission of the European Communities

(Case T-14/90)

(90/C 101/12)

An action against the Commission of the European Communities was brought before the Court of First

Instance of the European Communities on 21 March 1990 by Claude Tahir, residing at 12 rue Mareyde, 1150 Brussels, represented by Jean-Noël Louis of the Brussels Bar, with an address for service in Luxembourg at the registered office of Fiduciaire Myson Sà rl, 6-8 rue Origer, 2269 Luxembourg.

The applicant claims that the Court should:

- declare the application admissible and well-founded,
- consequently, annul the decision of 6 May 1985 in so far as it would reintegrate the applicant at the same grade and step which he held on the date of the commencement of his leave on personal grounds,
- order the Commission to adopt a new decision of reintegration, reinstating his career with regard to grade, step and the pension scheme,
- order the Commission to pay an allowance equal to the difference between the remuneration which he actually received and the remuneration which he would have received if he had been reintegrated in accordance with the provisions of the Staff Regulations,
- declare that when examining the merits of candidates for promotion the Commission must take into consideration the experience which he acquired between 17 January 1972 and 30 January 1985,
- order the Commission to pay the costs of the proceedings and the costs necessarily incurred in pursuing them.

Contentions and main arguments adduced in support

The applicant maintains that the position taken by the Commission in not reintegrating him in the first vacant post constitutes an infringement of Article 40 (4) of the Staff Regulations and a breach of the principle of equal treatment and non-discrimination between officials and that the Commission has also disregarded the principle of good faith and failed in its duty to have regard to officials' interests.

In support of his claim for damages, the applicant relies on the decisions of the Court in which it has held that officials who, by reason of the institution's unlawful conduct, have not been reintegrated at the end of their leave on personal grounds are entitled to compensation for the actual damage which they have suffered and that in principle the damages payable in this regard must be equal to the remuneration to which the official would be entitled, less net income received in the same period from other employment.

Removal from the Register of Case T-23/89 (*)

(90/C 101/13)

(Language of the case: French)

By order of 21 March 1990 the Court of First Instance of the European Communities (Third Chamber) ordered the removal from the Register of Case T-23/89: Michèle Actis-Dato and Others v. Commission of the European Communities.

(*) OJ No C 317, 28. 11. 1987.