

- declares, in Article 3, that certain aid that Spain intends to grant to the applicant to cover exceptional restructuring costs in 2001 are incompatible with Article 7 of Council Regulation (EC) No 1407/2002 of 23 July 2002 on State aid to the coal industry <sup>(4)</sup>;
- requires Spain, in Article 4, to recover, among other amounts, the aid mentioned in Article 1.

In support of its claims, the applicant alleges:

- lack of competence on the part of the Commission to adopt the decision challenged, following the expiry of the ECSC Treaty;
- the inappropriateness of the procedure followed in adopting the decision challenged, the Commission having failed to previously to revoke Articles 1, 2 and 5 of Decision 2002/827/ECSC;
- infringement of the principle of legal certainty and cumulative procedural errors, inasmuch as Article 1 of the decision challenged treats as unlawful and incompatible with the common market certain aid authorised by Decision 98/637/ECSC, even though that aid had already been held to be justified in Decision 2002/827/ECSC.
- a manifest error of assessment of the facts, inasmuch as the Commission failed to take the view that certain aid granted to the applicant to cover exceptional restructuring costs was justified.

<sup>(1)</sup> T-291/02 González y Díez v Commission (OJ 2002 C 289, p. 33).

<sup>(2)</sup> OJ 1998 L 303, p. 57

<sup>(3)</sup> OJ 2001 L 58, p. 24

<sup>(4)</sup> OJ 2002 L 205, p. 1.

**Action brought on 20 January 2004 by Jacques Verborgh against the Commission of the European Communities**

**(Case T-26/04)**

(2004/C 71/71)

*(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 20 January 2004 by Jacques Verborgh, residing in Aalter (Belgium), represented by Nicolas Lhoëst, lawyer, with an address for service in Luxembourg.

The applicant claims that the Court should:

- Annul the decision of the appointing authority of 20 December 2002 confirming the applicant's initial classification in Grade A 7;
- Annul, to the extent necessary, the decision of the appointing authority of 9 October 2003 rejecting the applicant's complaint;
- Order the defendant to pay all of the costs of the proceedings.

*Pleas in law and main arguments*

Following the Court's judgment in Case T-17/95 <sup>(1)</sup>, the Commission adopted an amendment of the rules on the criteria applicable to appointment in grade and classification in step on recruitment. By the contested decision, it confirmed the applicant's classification in Grade A 7 at the date of his recruitment and for that reason rejected his request to be reclassified.

In support of his action, the applicant invokes the lack of reasoning in the contested decision, a manifest error of appraisal and alleged discrimination between the applicant himself, whose request to be reclassified was rejected, and other officials who, having professional experience as long as his own, were able to secure reclassification.

<sup>(1)</sup> Judgment of the Court of First Instance of the European Communities of 5 October 1995; published in OJ 1995 C 315 of 25.11.1995, p. 14.

**Action brought on 27 January 2004 by the El Corte Inglés S.A. against the Office for Harmonisation in the Internal Market**

**(Case T-27/04)**

(2004/C 71/72)

*(Language of the case: Spanish)*

An action against the Office for Harmonisation in the Internal Market (OHIM) was brought before the Court of First Instance of the European Communities on 27 January 2004 by El Corte Inglés, established in Madrid, represented by lawyers J.-L. Rivas Zurdo and E. López Leiva, members of the Ilustre Colegio de Madrid.