

Press and Information Division

**PRESS RELEASE No 59/03**

10 July 2003

Judgments of the Court of Justice in Cases C-11/00 and C-15/00

*Commission of the European Communities v European Central Bank (ECB) and  
Commission of the European Communities v European Investment Bank (EIB)*

**THE COURT ANNULS DECISIONS OF THE EUROPEAN CENTRAL BANK (ECB)  
AND THE EUROPEAN INVESTMENT BANK (EIB) CONCERNING FRAUD  
PREVENTION AND COOPERATION WITH THE EUROPEAN ANTI-FRAUD  
OFFICE (OLAF)**

*The regulation concerning investigations conducted by OLAF is applicable to both the ECB  
and the EIB*

In 1999, the European Commission established the European Anti-Fraud Office (OLAF) on the basis of the EC Treaty. OLAF's powers to conduct administrative investigations within Community institutions, bodies, offices and agencies are defined in a Community regulation adopted in 1999.<sup>1</sup> The ECB and the EIB decided<sup>2</sup> to reserve power to conduct such investigations within their organisations to their own internal departments.

The Commission brought two actions before the Court of Justice for annulment of the decisions of the ECB and the EIB. It claims that the decisions are contrary to the 1999 regulation concerning investigations conducted by OLAF.

The ECB and the EIB contend that the regulation does not apply to them.

The Court starts by pointing out that under the 1999 regulation OLAF may carry out investigations within the institutions, bodies, offices and agencies established by, or on the

---

<sup>1</sup> Regulation (EC) No 1073/1999 adopted jointly by the European Parliament and the Council, OJ 1999 L 136, p. 1.

<sup>2</sup> Decision No 1999/726/EC of the ECB, OJ 1999 L 291, p 36. The EIB's decision has not been published.

basis of, the Treaties establishing the European Communities. The ECB and the EIB are therefore concerned by the regulation, since they were established by the EC Treaty.

The Court goes on to recall that **the ECB and the EIB are granted independence by the EC Treaty** for the purpose of carrying out the tasks assigned to them by the Treaty. However, **the purpose of that autonomy is not to set them completely apart from the European Community and exempt them from every rule of Community law:** thus, both of them must, in particular, contribute to the attainment of the European Community's objectives and there are no grounds which *prima facie* preclude the Community legislature from adopting, by virtue of the powers conferred on it in the area of fraud prevention, legislative measures capable of applying to the ECB and the EIB.

The Court finds, furthermore, that neither the ECB nor the EIB has shown how the investigative powers conferred on OLAF affect their ability to perform their specific tasks independently.

Although OLAF was established by the Commission and was incorporated into the framework of that institution, **the Community legislature has provided for guarantees intended to ensure that OLAF is fully independent and that it is required to comply with Community law.**

In addition, under the 1999 regulation, OLAF's powers are clearly defined and delineated. A decision to open an investigation must accordingly be based on sufficiently serious suspicions. **Furthermore, the investigation must be carried out in accordance with the rules of the Treaties and in compliance with the conditions and procedures provided for in the 1999 regulation and in decisions adopted by each institution, body, office and agency, which allow account to be taken, in certain circumstances, of any matters specific to those entities.**

Finally, the Court states that the Community legislature was entitled to take the view that the establishment of a centralised investigative system, which is independent and specialised, such as that set up by the 1999 regulation, was necessary for the purpose of stepping up the fight against fraud.

**The 1999 regulation concerning investigations conducted by OLAF is, therefore, applicable to both the ECB and the EIB.**

**Since the decisions of the ECB and the EIB have precisely the effect of preventing that regulation from applying to them, the Court decides that the decisions should be annulled.**

*Unofficial document for media use only, not binding on the Court of Justice*

*Available in all languages*

*For the full text of the judgment, please consult our Internet site*

**[www.curia.eu.int](http://www.curia.eu.int)**

*at approximately 3.00 p.m. today*

*For further information, please contact Christopher Fretwell:*

*tel: (00 352) 4303 3355; fax: (00 352) 4303 2731*