

JUDGMENT OF THE COURT OF FIRST INSTANCE (Third Chamber)
20 September 2001

Case T-171/00

Peter Spruyt
v
Commission of the European Communities

(Officials – Insurance against the risk of accident and of occupational disease –
Entitlement to benefits provided for in Article 73 of the Staff Regulations –
Paragliding accident)

Full text in French II - 855

Application for: annulment of the Commission's decision of 13 September 1999 refusing to apply to the applicant Article 73 of the Staff Regulations of Officials of the European Communities.

Held: The Commission's decision of 13 September 1999 refusing to apply to the applicant Article 73 of the Staff Regulations of Officials of the European Communities is annulled. The Commission is ordered to reimburse to the applicant all the medical expenses connected with the paragliding accident sustained by him on 9 May 1999 over and above those which have been reimbursed to him under Article 72 of the Staff Regulations, together with default interest at the rate of 6.25% as from 13 September 1999.

Summary

*1. Officials – Social security – Insurance against accidents and occupational diseases – Exclusion of cover for accidents due to the practice of parachuting – Scope – Paragliding – Not included
(Staff Regulations, Art. 73; Rules on the insurance of officials of the European Communities against the risk of accident and occupational disease, Art. 4(1)(b), third indent)*

*2. Officials – Social security – Insurance against accidents and occupational diseases – Exclusion of cover for accidents due to the practice of sports regarded as dangerous – Concept of dangerous sports – Definition by reference to a list given for guidance – Breach of the principle of legal certainty – Unlawful
(Staff Regulations, Art. 73; Rules on the insurance of officials of the European Communities against the risk of accident and occupational disease, Art. 4(1)(b), third indent)*

1. Paragliding cannot be regarded as parachuting within the meaning of the third indent of Article 4(1)(b) of the Rules on the insurance of officials of the European Communities against the risk of accident and occupational disease. The two sports are different.

(see paras 31-36)

2. Under the third indent of Article 4(1)(b) of the Rules on the insurance of officials of the European Communities against the risk of accident and occupational disease, ‘accidents shall not be covered by Article 73 of the Staff Regulations if they are due to ... [p]ractice of sports regarded as dangerous, such as boxing, karate, parachuting, speleology, underwater fishing and exploration with breathing equipment including containers for the supply of air or oxygen’.

That provision, in so far as it defines the concept of sports regarded as dangerous excluded from the coverage of risks provided for by Article 73 of the Staff Regulations, by reference to a list given for guidance of sports regarded as such, is in breach of the principle of legal certainty and is therefore unlawful.

The principle of legal certainty cannot tolerate a situation where an official who is considering practising a sport not mentioned in the list contained in the third indent of Article 4(1)(b) of the Rules is required to weigh up whether that sport, in the light of the degree of similarity which it displays with one of those referred to in that list, may be considered by the Community administration to be regarded as dangerous. The same principle likewise cannot allow that administration, when confronted with a request for the application of Article 73 of the Staff Regulations to an accident which has occurred during the practice of a sporting activity, to have discretion to assess whether the activity in question belongs to the category of sports regarded as dangerous within the meaning of the abovementioned rules.

(see paras 64-72, 84)

See: 169/80 *Gondrand Frères and Garancini* [1981] ECR 1931, para. 17; 205/82 to 215/82 *Deutsche Milchkontor and Others* [1983] ECR 2633, para. 30; 92/87 and 93/87 *Commission v France and United Kingdom* [1989] ECR 405, para. 22; T-23/95 *Bitha v Commission* [1996] ECR-SC I-A-13 and II-45, paras 40 and 41; C-143/93 *Van Es Douane Agenten* [1996] ECR I-431, para. 27