

JUDGMENT OF THE COURT OF FIRST INSTANCE (Fourth Chamber)
9 July 2003

Case T-22/01

Petros Efthymiou
v
Commission of the European Communities

(Officials – Repayment of mission expenses –
Business class air travel)

Full text in French II - 891

Application for: annulment of the Commission's decision of 24 March 2000 making three 'supplementary amendments' to mission expense accounts and charging to the applicant the sums overclaimed and, in addition, a request that the Commission should be ordered to repay to the applicant the amounts deducted from his remuneration by way of sums overclaimed.

Held: The Commission's decision of 24 March 2000 making three 'supplementary amendments' to mission expense accounts and charging to the applicant the sums overclaimed is annulled inasmuch as it charges to the applicant, for the mission to the Hague of 12 to 18 September 1999, a sum overclaimed in respect of air travel costs of BEF 1 921 instead of BEF 1 291. The defendant is ordered to repay to the applicant the sum of EUR 15.62 together with interest to run from 26 June 2000, at the rate fixed by the European Central Bank for principal refinancing operations applicable for the period in question, increased by two points. The remainder of the application is dismissed. The defendant is ordered to bear its own costs and to pay one sixth of those incurred by the applicant.

Summary

1. Officials – Reimbursement of expenses – Mission expenses – Commission Guide to Missions – Air travel – Type of ticket that may be reimbursed (Staff Regulations, Annex VII, Art. 12(2), first subpara.)

2. Officials – Reimbursement of expenses – Mission expenses – Internal directive of an institution on the application of the Staff Regulations – Legal effects (Staff Regulations, Art. 71; Annex VII, Arts 11 to 13)

3. Officials – Reimbursement of expenses – Mission expenses – Commission Guide to Missions – Air travel – Permitted exceptions concerning the type of ticket that can be reimbursed (Staff Regulations, Annex VII, Art. 12(2), second and third subparas; Commission Guide to Missions, Section III.3)

*4. Officials – Reimbursement of expenses – Mission expenses – Commission Guide to Missions – Air travel – Body authorised to allow exceptions concerning the type of ticket that can be reimbursed
(Staff Regulations, Art. 71; Commission Guide to Missions, Section III.3)*

*5. Procedure – Application initiating proceedings – Procedural requirements – Statement of the subject-matter of the proceedings – Summary of the pleas in law relied upon – Similar requirements for submissions in support of a plea in law
(EC Statute of the Court of Justice, Art. 19; Rules of Procedure of the Court of First Instance, Art. 44(1)(c))*

1. It is apparent from Article 12(2) of Annex VII to the Staff Regulations that where travel by air is authorised, an official will, unless the appointing authority decides differently, be entitled to reimbursement of his travel costs on the basis of the tariff charged for 'the class immediately below luxury class, or first class', which means that the class immediately below the best class actually offered on the market for the journey in question must be taken into consideration.

(see para. 50)

2. The Commission's Guide to Missions, adopted by internal administrative decision pursuant to Article 71 of the Staff Regulations and Articles 11 to 13 of Annex VII to the Staff Regulations, is an internal directive and must therefore be regarded as a rule of practice which the administration imposes on itself and from which it may not depart without specifying the reasons which have led it to do so, since otherwise the principle of equal treatment would be infringed. In fact there is nothing in

principle to prevent the appointing authority from drawing up rules by means of an internal decision of general effect, to govern the exercise of the discretion conferred on it by the Staff Regulations.

(see paras 53-54)

See: T-2/90 *Ferreira de Freitas v Commission* [1991] ECR II-103, para. 61, and the case-law cited; T-100/96 *Vicente-Núñez v Commission* [1998] ECR-SC I-A-591 and II-1779, para. 67

3. The combined provisions of the second and third subparagraphs of Article 12(2) of Annex VII to the Staff Regulations and of Article 2 of the rules adopted by agreement between the institutions laying down the conditions for the reimbursement of travel expenses in respect of missions carried out under particularly tiring conditions, referred to in the third subparagraph of Article 12(2) of Annex VII to the Staff Regulations, describe exhaustively the circumstances in which an exception from the rule of reimbursement on the basis of ‘the class immediately below luxury class, or first class’ may be allowed for air travel. Therefore, the terms ‘derogations from the rules set out above’ in Section III.3 of the Commission’s Guide to Missions relate only to authorisation for business class or first class in the specific circumstances described in Section III.3, on the basis of the Staff Regulations and the common rules in force.

(see paras 60, 63)

4. Section III.3 of the Commission’s Guide to Missions, relating to air travel, must be interpreted as meaning that the exceptions envisaged by the terms ‘derogations from the rules set out above’ must be approved not just by the person authorising the mission, but also by the administration. The approval of the person authorising the mission is merely intended to confirm, in the circumstances of each individual case, that the exception is in the interests of the service, although the latter must be reconciled with the need for balanced management of the resources made available

to the institution, and with the need to ensure equal treatment of officials within the same institution; it is for the administration of that institution to check and ensure that those conditions are satisfied.

(see paras 64, 68)

5. Under Article 21 of the Statute of the Court of Justice and Article 44(1)(c) of the Rules of Procedure of the Court of First Instance, an application must state the subject-matter of the proceedings and a summary of the pleas in law on which it is based; an infringement of those provisions constitutes an absolute bar to proceeding with a case, which the Court may consider at any time of its own motion in accordance with Article 113 of those Rules. The information given must be sufficiently clear and precise to enable the defendant to prepare his defence and the Court to give a ruling, if necessary without other supporting information. In order to guarantee legal certainty and the sound administration of justice it is necessary, for an action to be admissible, that the basic legal and factual particulars relied on are indicated, at least in summary form, coherently and intelligibly in the text of the application itself. Similar requirements are called for where a submission is made in support of a plea in law.

(see paras 86-87)

See: T-128/96 *Lebedef v Commission* [1996] ECR-SC I-A-629 and II-1679, paras 24 and 25; T-352/94 *Mo Och Domsjö v Commission* [1998] ECR II-1989, paras 333 and 334; T-129/98 *Sabbioni v Commission* [1999] ECR-SC I-A-223 and II-1139, para. 92; T-131/99 *Shaw and Falla v Commission* [2002] ECR II-2023, para. 71