JUDGMENT OF THE COURT OF FIRST INSTANCE (Third Chamber)
19 November 1992 *

In Case T-80/91,

Anna Maria Campogrande, an official of the Commission of the European Communities, residing in Brussels, represented initially by Philippe Monnoyer de Galland and subsequently by Alain H. Pilette, both of the Brussels Bar, and by Hans G. Kemmler, of the Frankfurt-am-Main Bar, with an address for service in Luxembourg at the Chambers of Elvinger and Schank, 31 Rue d'Eich,

applicant,

v

Commission of the European Communities, represented by its Legal Adviser, Joseph Griesmar, and Ana Maria Alves Vieira, of its Legal Service, acting as Agents, assisted by Denis Waelbroeck, of the Brussels Bar, with an address for service in Luxembourg at the office of Roberto Hayder, of its Legal Service, Wagner Centre, Kirchberg,

defendant,

APPLICATION for the annulment of the implied decision rejecting the applicant's complaint against the decision of 13 February 1991 to reprimand her,

THE COURT OF FIRST INSTANCE OF THE EUROPEAN COMMUNITIES (Third Chamber),

composed of: J. Biancarelli, President, B. Vesterdorf and R. García-Valdecasas, Judges,

Registrar: H. Jung,

having regard to the written procedure and further to the hearing on 21 October 1992,

* Language of the case: French.

gives the following

Judgment

Facts, legal background and procedure

1 Following disciplinary proceedings, the applicant, an official in Grade A 5 in the Directorate-General for External Relations of the Commission of the European Communities (hereinafter 'the Commission'), was given a reprimand by a decision of 13 February 1991 because, according to the defendant, of her persistent and deliberate refusal to inform the administration of her private address, which, according to Commission, she is required to do under Article 55 of the Staff Regulations of Officials of the European Communities ('the Staff Regulations').

2 The disciplinary authority regarded her refusal as all the more serious because the Commission considers that it is required to communicate the private addresses of its officials to the national authorities of the host country under Article 16(2) of the Protocol on the Privileges and Immunities of the European Communities ('the Protocol') and the Agreement concluded on 3 April 1987 between the institutions of the European Communities established in Belgium and the Belgian Government with regard to information concerning the officials of those institutions ('the Agreement').

3 The relevant provisions of the Protocol are the following:

— Article 12(b) provides that 'in the territory of each Member State and whatever their nationality, officials and other servants of the Communities shall ... together with their spouses and dependent members of their families, not be subject to immigration restrictions or to formalities for the registration of aliens';

— Article 16, applicable to the applicant by virtue of Regulation (EURATOM, ECSC, EEC) No 549/69 of the Council of 25 March 1969 (OJ, English Special Edition 1969, p. 119), as last amended by Regulation No 3520/85 of 12 December 1985 (OJ 1985 L 335, p. 60), provides, in the second subparagraph, that the 'names, grades and addresses of officials and other servants ... shall be communicated periodically to the Governments of the Member States';

— Article 18 provides that 'privileges, immunities and facilities shall be accorded to officials and other servants of the Communities solely in the interests of the Communities';

— finally, in the words of Article 19: 'The institutions of the Communities shall, for the purpose of applying this Protocol, cooperate with the responsible authorities of the Member States concerned'.

4 The relevant provisions of the Agreement are the following:

— Article 1 provides that 'the Institutions shall twice a year notify the Ministry of Foreign Affairs, Foreign Trade and Development Cooperation of the information specified below concerning their officials and other servants:

1. Name and forenames

2. Place and date of birth

3. Sex

4. Nationality

5. Principal residence (commune, street and number)

6. Civil status

7. Composition of household

8. Date of taking up duties in Belgium';

— Article 2 provides that 'any changes in points 1 to 7 of Article 1 shall be notified monthly';

— Article 4 provides that 'the Ministry of Foreign Affairs, Foreign Trade and Development Cooperation shall inform the communes concerned of the officials and other servants of the institutions established on their territory and also of the notifications referred to in Articles 2 and 3'.

5 The Agreement and the commitments resulting therefrom were published in *Informations Administratives* Nos 1/87 of 9 April 1987, 4/88 of 10 February 1988 and 22a of 13 July 1988, which were distributed to all staff. Following the conclusion of the Agreement, on 9 December 1987 the Director-General for Personnel and Administration of the Commission asked the officials of that institution established in Belgium to complete a questionnaire giving their personal details so that they might be sent to the Belgian authorities in accordance with the second paragraph of Article 16 of the Protocol and with the Agreement. The applicant refused to complete the questionnaire.

6 The background to the dispute may be resumed as follows: following a default judgment in civil proceedings, the applicant found in June 1989 that her name and that of her husband appeared in the register of the commune of Ixelles, at an address which had not been hers since 1981. That registration was due to the fact that the Commission had previously communicated the applicant's address to the Belgian authorities, who had informed the commune in question thereof, in application of Article 1 of the Agreement.

7 On 6 September 1989 the applicant submitted a complaint in which she disputed the Commission's right to communicate that information to the Belgian authorities and asked the Commission to denounce the Agreement. The Commission contends that upon investigating that complaint it found that since 22 January 1979, the date on which she had moved to Ixelles, Mrs Campogrande had never informed the administration that her private address had changed. That assertion is disputed by the applicant. By a decision of 11 April 1990 the Commission expressly rejected the complaint on the ground that the Agreement had its legal basis in the Protocol. In particular, the Commission explained to the complainant that the Agreement simply established a system for the communication to the Belgian authorities of the information provided for in Article 16 of the Protocol and was intended to facilitate the implementation of the Protocol. Finally, the applicant was reminded of her obligations under Article 55 of the Staff Regulations, in particular that of communicating her private address to her administration. The applicant did not appeal against the express rejection of her complaint.

8 It is common ground that the Director of Personnel then asked the applicant on several occasions to communicate her private address to the administration, on pain of disciplinary proceedings. When she repeatedly refused to provide such information, disciplinary proceedings were brought against Mrs Campogrande, which ended, on 13 February 1991, in her being given a reprimand as provided for in Article 86(2)(b) of the Staff Regulations.

9 By letter of 15 April 1991 the applicant submitted a complaint against the disciplinary measure imposed on her. The Commission's response to that complaint was an implied rejection, confirmed on 30 October 1991 by an express decision to that effect which was notified to the applicant on 11 November 1991.

10 The applicant thereupon brought these proceedings by an application lodged on 15 November 1991.

11 The written procedure was completed on 26 June 1992 when the Commission's rejoinder was lodged; the parties submitted oral argument and their answers to the questions put by the Court at the hearing on 21 October 1992. On that occasion the Court ordered the personal appearance of Mrs Campogrande, as provided for in Articles 65(a) and 66 of the Rules of Procedure.

Forms of order sought by the parties

12 The applicant claims that the Court should:

— declare the application admissible inasmuch as it has been submitted in accordance with the Staff Regulations;

— annul the defendant's implied decision rejecting her complaint of 15 April 1991; and

— order the defendant to pay all the costs of the proceedings.

13 The Commission claims that the Court should:

— dismiss the application as unfounded;

— make an order for costs as provided for by the law.

Substance

14 The applicant initially relied on six pleas in support of her application, which, as the Commission accepts, must be regarded as being directed against the initial decision of 13 February 1991 and at the same time the implied and express decisions rejecting her complaint. First, she claims that the impugned decision is vitiated by a procedural defect; secondly, she claims that it does not state the reasons on which it is based; thirdly, she contends that it is based on an error of fact; fourthly, she maintains that the disciplinary measure imposed on her has no legal basis; fifthly, she alleges that there is a conflict between the Agreement and the Protocol; and, sixthly and lastly, she contends that the impugned decision infringes the Protocol and breaches her right to privacy.

15 At the hearing the applicant expressly abandoned the pleas concerning the alleged procedural defect, the failure of the decision to state reasons and the breach of her right to privacy.

The alleged error of fact

The parties' arguments

16 The applicant maintains that the allegation that she failed to inform the Commission of her current private address is unfounded, since she provided that information on two occasions, in 1982 and in 1984. Quite apart from the fact that neither Article 55 of the Staff Regulations, to which the disciplinary measure refers, nor any other provision in the Staff Regulations imposes a duty on officials to communicate their private addresses to the institution to which they belong, the applicant maintains that in any event she duly communicated her private address to the Commission. The last occasion on which she did so was on 5 June 1984, the date on which she informed the Commission of the address where she has lived ever since. Accordingly, she cannot be accused of any failure to comply with Article 55 of the Staff Regulations. After that date, since her involvement in civil proceedings connected, as she claims, with the transmission of her private address to the Belgian authorities, the applicant maintains that she has been prepared to communicate her address to the institution on condition that it gives her an assurance that the information will not be passed on to the Belgian authorities.

17 The Commission maintains that it never received the alleged letter of 5 June 1984, which appears in a partially deleted form in Annex 9 to the application, whereby the applicant claims to have communicated her current address to the institution. According to the defendant, the applicant's last private address was communicated to it in 1979 and does not correspond to her present address. The Commission further states that if, as the applicant claims, she had already provided the administration with her new address, there ought to have been nothing to prevent her doing so again during the disciplinary proceedings, which would not then have been pursued. On the other hand, if, as the Commission believes, that is not the case, that refusal by the applicant must constitute a disciplinary fault on her part.

Findings of the Court

18 With regard to the first plea, the Court observes that while the applicant claims that she communicated her private address to the institution on two occasions, in 1982 and 1984, that claim is not supported by any document in the file, since the alleged letter of 5 June 1984, appearing in Annex 9 to the application, which the Commission maintains it did not receive, does not bear her superior's stamp and was not sent by registered post. Accordingly, the Court cannot accept that document as evidence. It is common ground that it does not appear in the applicant's personal file and the date on which it was drawn up cannot be determined with certainty. Furthermore, and in any event, the applicant accepted, both during the written procedure and when she was questioned by the Court, that she refused on a number of occasions to communicate her private address after that date and, in particular, after the Commission's communication of 9 December 1987 following the signature on 9 April 1987 of the Agreement between the Community institutions and the Kingdom of Belgium. It is sufficiently established, moreover, by the written inquiry and the oral procedure, in particular the hearing of the applicant, that she consistently made communication of her address conditional on an undertaking from the Commission not to transmit the information thus obtained to the Belgian authorities. Consequently, the applicant is not in any case justified in maintaining that the impugned decision is based on wrong facts.

19 The first plea must therefore be dismissed.

The alleged absence of a legal basis for the disciplinary measure

The parties' arguments

20 The applicant claims that the sole legal basis that might justify the reprimand she received, namely Article 55 of the Staff Regulations, with the exception of the Protocol and the Agreement, is lacking, since, on the one hand, none of its provisions requires officials to transmit their private addresses to the institutions and, on the other hand, the detailed rules referred to in the third paragraph of Article 55 have never been adopted. Finally, in accordance with the first paragraph of that article, the applicant was at all times at the disposal of the Commission.

21 In the alternative, the applicant maintains that the fact that she declined to complete the questionnaire annexed to the communication of 9 December 1987 sent by the Commission to officials, temporary staff and auxiliary staff employed in Belgium could not constitute failure to comply with the Staff Regulations either, since that communication did not impose any obligation whatsoever and was neither a provision of nor a measure for giving effect to the Staff Regulations.

22 The Commission considers that this plea is unfounded. It maintains that the applicant's persistent refusal to communicate her private address to the administrative authorities constitutes failure to comply with the Staff Regulations, and in particular Article 55, a provision from which it may reasonably be inferred that the administration must be able to contact its officials at any time and, consequently, must be aware of their private addresses. That failure to comply with Article 55 is all the more serious because such information must be communicated to the Kingdom of Belgium both in application of Article 16, second paragraph, of the Protocol and under the Agreement, so that the applicant's refusal was the cause of a failure on the part of the Commission to comply with its obligations vis-à-vis the Kingdom of Belgium. That persistent refusal justifies the reprimand the applicant received on 13 February 1991 in pursuance of Article 86(2)(b) of the Staff Regulations.

Findings of the Court

23 The fifth recital of the grounds for the decision of 13 February 1991 reprimanding the applicant is worded as follows: 'The administration considers ... that Mrs Anna Maria Campogrande's refusal to inform it of her private address constitutes a failure to comply with the obligations of officials, in particular the obligation under Article 55 of the Staff Regulations'.

24 Article 55 of the Staff Regulations, to which the decision thus refers, consists of three paragraphs. The first paragraph provides that 'officials in active employment shall at all times be at the disposal of their institution'. The second defines the length of the normal working week. According to the third paragraph, finally, 'an official may, moreover, be required because of the exigencies of the service or safety rules to remain on standby duty at his place of work or at home outside normal working hours. The institution shall lay down detailed rules for the application of this paragraph after consulting its Staff Committee'.

25 The Court considers, and the parties accept, that the entry into force of the third paragraph of Article 55 of the Staff Regulations is conditional upon the adoption of the detailed rules it refers to, in so far as it lays down requirements which are not sufficiently clear and unconditional. On the other hand, the same does not apply to the first paragraph of that article, whose entry into force is not conditional upon the adoption of detailed rules and which may be enforced against staff, vis-à-vis whom it creates a sufficiently precise obligation.

26 Consequently, the Court considers that, contrary to the claims of the applicant, the communication of 9 December 1987, sent by the defendant to the permanent staff, temporary agents and other auxiliary staff employed in Belgium, has adequate legal foundation in the first paragraph of Article 55 of the Regulations, which cannot be effectively implemented unless the administrative authorities have available to them information enabling them at any time to make contact with their employees at their private address. Moreover, the principles governing the relationship between employer and employee, taken as a whole, and plain common sense, require the

employee's address to be known to the employer. Accordingly, the Court considers that by refusing to communicate her personal address, the applicant made it impossible for her to be at all times at the disposal of the institution and that conduct constitutes a failure on her part to comply with the relevant obligations under the Staff Regulations.

27 The second plea, to the effect that the disciplinary measure was without an adequate legal basis in Article 55 of the Staff Regulations, must therefore also be dismissed.

The alleged conflict between the Agreement and the Protocol

The parties' arguments

28 The applicant maintains that she was prepared to communicate her private address to the Commission provided that the Commission guaranteed that it would not be entered in the population registers of the Kingdom of Belgium She maintains that by providing that the names and forenames, place and date of birth, sex, nationality, principal residence, civil status, composition of household and date of entering service in Belgium of officials are to be communicated to the Belgian authorities twice a year, the Agreement exceeds the obligations imposed on the Commission by Article 16 of the Protocol.

29 Furthermore, according to the applicant, the Agreement, as applied by the Belgian authorities, replaces the formalities for the registration of aliens provided for in Article 3 of the Royal Decree of 1 April 1960 governing the maintenance of population registers. Accordingly, not only is Article 12(b) of the Protocol no longer applied, but it is replaced by the Agreement, which requires the Commission to provide the Belgian Government with much more extensive information than it was previously required to communicate under Article 16, second paragraph, of the Protocol.

30 That interpretation is supported, on the one hand, by a circular of 17 January 1987 from the Belgian Minister for the Interior and the Civil Service stating that officials

and other servants of the Community institutions are henceforward to be the subject of a 'note' in the population registers of the commune of their principal residence and that that 'note' will have the same effects as registration and, on the other hand, by a circular of 13 March 1989, according to which officials of the institutions of the European Communities are to be the subject of a 'note' in the population registers of the commune of their principal residence, that 'note' being equivalent to entry in the population register. Following that interpretation of the Agreement, it was found that officials of the Communities were registered in the national register of natural persons by virtue of the Belgian legislative provisions relating to that register which provide that 'persons registered in the population register and the register of aliens held in the communes' are to be registered in the national register.

31 The applicant relies on the judgment in Case 85/85 *Commission* v *Belgium* [1986] ECR 1149, where the Court of Justice held that any measure having the effect of compelling officials and other servants of the Communities to apply for registration in the population register was contrary to Article 12(b) of the Protocol. It must be even more clearly so where registration is effected automatically. Therefore the interpretation and application of the Agreement both by the Minister for the Interior and the Civil Service and by the communes or the Commission itself is contrary to Article 12 of the Protocol. Consequently, the applicant was justified, she maintains, in refusing to transmit the information requested to the defendant.

32 Finally, the applicant relies on a decision of 11 October 1991 of the Advisory Committee on the Protection of Privacy, which declared that the registration of officials of the Communities in the national register was unlawful and accepted that, by providing that the 'note' of Community officials in the population register was equivalent to registration of those officials in the register, the Minister for the Interior and the Civil Service had exceeded his powers.

33 The Commission argues that, as the Court of Justice has held, the purpose of the privileges and immunities guaranteed by the Protocol, which, being in the form of an annex to the Merger Treaty, is equal in rank to the Treaty itself, is to avoid any

interference with the functioning and independence of the Communities (order of the Court of Justice in Case C-2/88 *Zwartveld and Others* [1990] ECR I-3365). The Agreement was concluded on the basis of Article 19 of the Protocol in order to put an end to a dispute with certain Belgian communes. It complies with Article 12(b) of the Protocol, whose purpose is to ensure that the staff of the Communities can perform their tasks without hindrance (see the Opinion of Advocate General VerLoren van Themaat in the *Commission* v *Belgium* case cited above), while observing the spirit of Article 18, first paragraph, of the Protocol.

34 The Commission observes that the Agreement provides in Article 1 that certain information relating to staff is to be communicated twice a year to the Minister of Foreign Affairs and Development Cooperation and that Article 4 stipulates that the Minister, once in possession of that information, is to convey it to the communes concerned. Those communes make a 'note' of it in the population registers. From the point of view of its effects, that 'note' is equivalent to registration in the population register under a special code entitled 'EEC Protocol'. The Commission infers from the analysis of those requirements that the Agreement, the recitals of which, moreover, expressly refer to Articles 16 and 19 of the Protocol, has simply set up a system for the communication of certain information to the Belgian authorities, as provided for in the second paragraph of Article 16 of the Protocol and in accordance with the case-law of the Court of Justice, which recognises the 'power of Member States to adopt measures enabling the national authorities to have an exact knowledge of population movements affecting their territory' (judgment of the Court of Justice in Case 118/75 *Watson and Belmann* [1976] 1185).

35 Furthermore, the fact that a 'note' in the communal registers produces the same effects as registration is no justification for describing it as a requirement of registration in the population register, from which officials of the Communities are exempt under Article 12(b) of the Protocol. The sole purpose of the Agreement is to dispense Community officials from having to apply for registration in the population registers, while making it possible for them to avoid the many inconveniences of not being registered. The fact that some ministerial circulars specified that a 'note' under the Agreement produces the same effects as registration in the register does not alter the fact that the exemption for officials is genuine. The

Agreement is therefore quite consistent with Article 12(b) of the Protocol, as the Commission has already informed the applicant in its answer of 11 April 1990 to an earlier complaint.

36 Accordingly, the applicant's stipulation that she would communicate the information requested to the Commission only if given an assurance that that information would not be transmitted to the Belgian authorities could not be met, since the Commission could not comply with such a requirement without failing to fulfil its own obligations under both Article 16 of the Protocol and Article 1 of the Agreement. Consequently, the disciplinary authority was right, in view of the applicant's persistent refusal to communicate the information requested, to reprimand her, primarily on the basis that she had failed to comply with her obligations under Article 55 of the Staff Regulations.

37 In any event, even if it appeared that the Agreement was contrary to Article 12(b) of the Protocol — which is not the case — it was not for the applicant to refuse to comply with its terms, according to the Commission, since the privileges and immunities guaranteed by the Protocol are guaranteed purely in the interest of the Communities. In that specific context, officials have no interest of their own to defend and therefore have no interest in bringing proceedings. That is clear from the judgment in *Commission* v *Belgium*, cited above, where the Court of Justice held that an official may not waive privileges which he does not have. In that sense, the applicant failed in any event to comply with her obligations under the Staff Regulations. If she considered that the Agreement was contrary to the Protocol, she should have acted in accordance with Articles 21 and 23 of the Staff Regulations. By failing to comply with the procedure laid down in those two provisions, the applicant failed in any event to fulfil her obligations under the Staff Regulations. The reprimand was therefore justified.

38 With regard to the decision of the Advisory Committee for the Protection of Privacy on which the applicant relies, the Commission observes that that authority stated in the grounds for its decision that it was not ruling on either 'the question whether the "note" of the complainant and the members of his family in the

population registers is lawful in itself, that is to say despite the consequences arising therefrom with regard to the national register', or 'the question whether the competent authority, namely the legislature, could determine that officials of the European Communities fulfilled the conditions for registration in the population registers or the conditions for a "note" equivalent to registration, without infringing the Protocol on the Privileges and Immunities of the European Communities'. That decision therefore has no bearing on the outcome of the present dispute.

Findings of the Court

39 In order to assess the pertinence of the third plea, that there is conflict between the Protocol and the Agreement, it should be pointed out *in limine* that, in the first place, the dispute relates solely to the communication of the applicant's private address to the Commission and, secondly, the Commission on several occasions asked the applicant to communicate that information to it, either solely on the basis of Article 55 of the Staff Regulations, in particular in its reply to an earlier complaint (see paragraph 7), or in pursuance of the combined requirements of Article 16 of the Protocol and Article 1 of the Agreement. The Court has already observed (see paragraph 26) that the refusal to communicate her address to her institution constitutes an infringement of the obligations laid down in Article 55 of the Staff Regulations, which concern only the internal working of the Commission and not problems relating to the Commission's communicating its employees' addresses to the national authorities of the Member States concerned. Therefore this plea in law, even if well founded, would not of itself be sufficient to require the annulment of the disciplinary measure imposed on the applicant. However, since the grounds of the impugned decision are based, at least in part, on the applicability of the Agreement to the applicant's situation, it is necessary for the Court to answer the arguments invoked in support of this plea.

40 The applicant essentially relies on three arguments in support of the plea: inconsistency between the Protocol and the Agreement with regard to the information which the Commission must communicate to the Member States; inconsistency between the Protocol and the Agreement with regard to the final recipients of that information; and infringement of the Protocol as a result of an interpretation by the Belgian authorities which is unlawful.

41 The Court observes, first of all, that both Article 16, second paragraph, of the Protocol and Article 1 of the Agreement provide, as shown in the terms of those provisions set out above, that the private addresses of officials and other servants of the European Communities are to be communicated to the Belgian authorities. There is therefore no inconsistency.

42 The Court observes, secondly, that solely in the interests of the Communities the Protocol grants certain privileges to their officials and that the privileges and immunities which it grants 'have a purely functional character, inasmuch as they are intended to avoid any interference with the functioning and independence of the Communities' (orders of the Court of Justice in Case 1/88 *SA Générale de Banque* v *Commission* [1989] ECR 857, paragraph 9, and *Zwartveld and Others,* cited above, paragraphs 19 and 20). It therefore has neither the purpose nor the effect of depriving the Member States of the opportunity they must have, as was expressly recognized in the *Watson and Belmann* case, cited above, of being in a position to know at all times the population movements affecting their territory. Consequently, the applicant is not justified in maintaining that the information obtained regarding her private address, the only factor in issue in this case, on the basis of the Protocol, by the Belgian authorities, in application of the Agreement, could not be transmitted to other public authorities, in particular the communes in which officials reside, in the conditions laid down in Article 19 of the Protocol and for the sole purposes of enabling the public authorities of the Kingdom of Belgium to be in a position to know the population movements affecting their territory. It is for the Member States to determine what authorities are to be responsible for such a task in the public service. Therefore, by providing that the minister should transmit employees' addresses to the communes concerned Article 4 of the Agreement does not infringe the combined requirements of Articles 12(b), 16, 18 and 19 of the Protocol.

43 Thirdly, the Court considers that the applicant's argument that the Agreement, as interpreted by the Belgian authorities, takes the place for Community officials of the formalities for the registration of aliens, even though those officials are exempt from that formality under Article 12(b) of the Protocol, is not pertinent. It is not for the Court, when reviewing the lawfulness of the contested Commission decision in the conditions laid down in Article 179 of the Treaty, to assess the validity of the Belgian authorities' interpretation of the requirements of the Agreement. It must simply ascertain that the disciplinary measure referred to it has an adequate

legal basis in the Staff Regulations, and more particularly, as explained above, in Article 55, and ensure that the Commission, by requiring, for the purposes of both the Protocol and Article 55 of the Staff Regulations, communication of the applicant's private address in the conditions provided for in the Agreement, did not infringe either the Protocol or the Staff Regulations. Since it is established that the applicant refused on a number of occasions to communicate her private address unless the Commission undertook not to communicate that information to the Belgian authorities, and since the grounds for the disciplinary measure correctly state that the Commission is unable to give the applicant such a guarantee, which would be contrary to both Article 16 of the Protocol and Article 1 of the Agreement, the Commission's decision imposing a disciplinary measure on the applicant is not vitiated by any error of law. As the Commission correctly maintains, the applicant's sole remedy, if she believed that there were grounds for doing so, was to initiate the procedure laid down in Article 23 of the Staff Regulations.

44 Therefore the third plea, based on the alleged inconsistency between the Protocol and the Agreement, must in any case be dismissed.

45 It follows from all of the foregoing that none of the three pleas put forward by the applicant is well founded and that, accordingly, the application must be dismissed.

Costs

46 Under Article 87(2) of the Rules of Procedure, the unsuccessful party is to be ordered to pay the costs if they have been applied for in the successful party's pleadings. However, Article 88 provides that in proceedings between the Communities and their servants the institutions are to pay their own costs.

On those grounds,

THE COURT OF FIRST INSTANCE (Third Chamber)

hereby:

1. Dismisses the application;

2. Orders the parties to pay their own costs.

Biancarelli Vesterdorf García-Valdecasas

Delivered in open court in Luxembourg on 19 November 1992.

H. Jung J. Biancarelli

Registrar President