# ORDER OF THE COURT OF FIRST INSTANCE (Fourth Chamber)
25 February 1992 *

In Joined Cases T-18/89 and T-24/89, Costs,

**Harissios Tagaras,** a former official of the Court of Justice of the European Communities, residing in Thessaloniki, represented by E. Sakhpekidou, of the Thessaloniki Bar, with an address for service in Luxembourg at the Chambers of Catherine Thill, 17 Boulevard Royal,

applicant,

v

**Court of Justice of the European Communities,** represented by Francis Hubeau, acting as Agent, with an address for service in Luxembourg at the office of its Agent at the Court of Justice, Kirchberg,

defendant,

APPLICATION for the taxation of costs following the judgment of the Court of First Instance of 7 February 1991,

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

composed of: R. García-Valdecasas, President, D. A. O. Edward and C. Briët, Judges,

Registrar: H. Jung,

makes the following

* Language of the case: French.

## Order

1 By application lodged at the Registry of the Court of Justice on 2 June 1987, Mr Tagaras brought an action, registered under No 162/87, for the annulment, first, of the decision of the Court of Justice of 23 September 1986 appointing him as a probationary official in so far as it classified him in Step 1 of Grade A 7 and, secondly, of the implied decision rejecting his complaint of 7 November 1986. On 26 August 1987 the defendant raised an objection of inadmissibility against the action. On 24 September 1987 the applicant submitted his observations on the objection of inadmissibility.

2 By application lodged at the Registry of the Court of Justice on 18 November 1987 Mr Tagaras brought a second action to cover the possibility of the first action being declared inadmissible; in it he sought the annulment (a) of the decision of the Court of Justice of 23 September 1986 appointing him as a probationary official in so far as it classified him in Step 1 of Grade A 7, (b) of the implied decision rejecting his request of 7 November 1986, and (c) of the implied decision rejecting his complaint of 12 May 1987. The application was registered under No 351/87. In response to the second application the defendant raised a further objection of inadmissibility on 8 January 1988. On 13 January 1988 the applicant submitted his observations on the second objection of inadmissibility.

3 On 10 February 1988 the Court of Justice (Third Chamber) ordered Cases 162/87 and 351/87 to be joined for the written procedure, the oral procedure, and the judgment and decided to reserve its decision on the objections of inadmissibility for the final judgment.

4 On 8 April 1988 the defendant appointed K. T. Loukopoulos, of the Athens Bar, to assist its Agent.

5 By virtue of Article 14 of the Council Decision of 24 October 1988 establishing a Court of First Instance of the European Communities, the Court of Justice (Third Chamber) made an order on 15 November 1989 referring the cases to the Court of First Instance. Case 162/87 was registered at the Court of First Instance as Case T-18/89 and Case 351/87 as Case T-24/89.

6 In those cases, Mr Tagaras was represented by E. Sakhpekidou, of the Thessaloniki Bar, during the written procedure, and by A. Kalogeropoulos, of the Athens Bar, during the oral procedure.

7 Judgment in those cases was delivered by the Court of First Instance on 7 February 1991 [(1991] ECR II-53): the first action (T-18/89) was declared inadmissible; the second action (T-24/89) was declared admissible. The decision of the Court of Justice of 23 September 1986 was annulled in so far as it determined the applicant's classification in step and the defendant was ordered to pay all the costs in both cases. The Court of First Instance ordered the defendant to pay the costs of the action which it held to be inadmissible because it considered that the defendant, by its attitude, had led the applicant to bring two actions in order to safeguard his rights.

8 On 30 April 1991 Mr Kalogeropoulos addressed to the defendant two detailed statements of fees and costs incurred in connection with the proceedings in the two cases. The amounts in question were BFR 295 000 and BFR 50 280 respectively.

9 By letter of 10 June 1991 addressed to the applicant's lawyer, the defendant's Agent informed him that he considered that the fees claimed were excessive, 'having regard *inter alia* to the relative difficulty of the matter and the points of comparison it contained'. He informed the applicant's lawyer that the defendant was prepared to pay the sum of BFR 150 000 in respect of fees.

10 On 2 August 1991 the applicant sent a letter to the defendant's Agent in which he declared that he was ready, while continuing to consider his initial request to be just and reasonable, to reduce the amount requested, in order to find an immediate and final solution to their disagreement. He agreed to waive 35% of the fees requested, with the exception of those relating to the oral procedure, which brought his claim down to BFR 219 000.

1 By letter of 18 September 1991 the applicant's lawyer was informed that the defendant had given its agreement to paying him BFR 175 000 in respect of fees and BFR 50 280 in respect of costs.

2 It was in those circumstances that, by application lodged at the Court Registry on 15 November 1991, the applicant applied for the costs to be taxed.

3 As the Court of Justice has held on numerous occasions, the Community judicature is 'not empowered to tax the fees payable by the parties to their own lawyers but it may determine the amount of those fees which may be recovered from the party ordered to pay the costs'. It follows that the Court of First Instance 'is not obliged to take account of any national scales of lawyers' fees or any agreement in relation to fees concluded between the party concerned and his agents or advisers'. Since Community law does not contain any provisions laying down a scale of fees, the Court of First Instance 'must consider all the facts of the case, taking into account the purpose and nature of the proceedings, their significance from the point of view of Community law, as well as the difficulties presented by the case, the amount of work generated by the dispute for the agents and advisers involved and the financial interest which the parties had in the proceedings' (order of the Court of Justice in Case 318/82 *Leeuwarder Papierwarenfabriek* v *Commission* [1985] ECR 3727).

4 In the light of those considerations and taking account of the difficulty of the litigation, the number of pleadings drafted and the length of time involved in travelling to Luxembourg to attend the hearing, the total amount of the costs to be paid to the applicant by way of fees should be set at BFR 220 000, to which must be added the amount of any value added tax payable on that amount.

5 Since the Court, when determining the recoverable costs, took account of all the circumstances of the case until the time of its decision, it is not necessary for it to give a separate decision on the costs incurred by the parties in connection with these supplementary proceedings.

On those grounds,

THE COURT OF FIRST INSTANCE (Fourth Chamber)

hereby orders:

**The total amount of the costs to be paid by the defendant to the applicant in respect of fees is set at BFR 220 000, together with any value add tax payable on that amount.**

Luxembourg, 25 February 1992.

H. Jung
Registrar

R. García-Valdecasas
President