ORDER OF THE COURT (Fifth Chamber)
5 December 1996 *

In Case C-175/96 P,

Orlando Lopes, official of the Court of Justice of the European Communities, residing in Luxembourg at 10 Rue Léon Thyes,

appellant,

APPEAL against the judgment of the Court of First Instance of the European Communities of 29 February 1996 in Case T-280/94 *Lopes* v *Court of Justice* [1996] ECR-SC II-239, seeking to have that judgment set aside in so far as it dismissed his claim for annulment of the decision communicated to him on 11 February 1994 rejecting his candidature for the posts declared vacant by notice No CJ 68/92 and of the decision of 17 December 1993 refusing to authorize him to work flexible working hours, as well as for compensation from the Court of Justice for the material and non-material damage which he claims to have suffered as a result of his superiors' conduct and the contested decisions,

the other party to the proceedings being:

Court of Justice of the European Communities,

THE COURT (Fifth Chamber),

composed of: L. Sevón, Judge, acting for the President of the Chamber, C. Gulmann, D. A. O. Edward, J.-P. Puissochet (Rapporteur) and M. Wathelet, Judges,

* Language of the case: French.

Advocate General: A. La Pergola,
Registrar: R. Grass,

after hearing the Opinion of the Advocate General,

makes the following

Order

1 By application lodged at the Court Registry on 6 May 1996 and registered in the Registry of the Court of Justice on 21 May 1996, Orlando Lopes brought an appeal pursuant to Article 49 of the EC Statute of the Court of Justice and the corresponding provisions of the ECSC and Euratom Statutes against the judgment of 29 February 1996 in Case T-280/94 *Lopes* v *Court of Justice* [1996] ECR-SC II-239, in so far as it dismissed his claim for annulment of the decision communicated to him on 11 February 1994 rejecting his candidature for the posts declared vacant by notice No CJ 68/92 and of the decision of 17 December 1993 refusing to authorize him to work flexible working hours and for compensation from the Court of Justice for the material and non-material damage which he claims to have suffered as a result of his superiors' conduct and the contested decisions.

2 Mr Lopes's appeal has been signed only by himself. It is accompanied by a certificate of the General Council of the Order of Advocates of Portugal, according to which, although his entry in the register of the Order was suspended with effect from 19 October 1983, Mr Lopes was authorized to conduct proceedings in his own name by decision of 23 February 1996.

3 By letter from the Registrar of the Court of Justice dated 1 July 1996 Mr Lopes was requested to submit an application in accordance with the requirements of

Article 17 of the EC Statute of the Court of Justice (hereinafter 'the Statute') and Article 37 of its Rules of Procedure and have it signed 'by an independent lawyer authorized to practise before a court of a Member State or of another State which is party to the Agreement on the European Economic Area' (hereinafter 'the EEA').

4 By document lodged at the Registry of the Court of Justice on 11 July 1996 and registered on 15 July 1996, Mr Lopes requested the Court to declare that his appeal had been brought in accordance with the abovementioned provisions and that there was therefore no need for it to be regularized. He claims that Article 17 of the Statute and Articles 37 and 38 of the Rules of Procedure merely require that the application be signed by a lawyer entitled to practise before a court of a Member State of the Community or of the EEA and that that registration be evidenced by the certificate lodged at the Registry. He claims that neither the wording nor spirit of those provisions require that the lawyer be a person other than the party whom he represents. Mr Lopes adds that such an obligation would infringe the rights of the defence, in particular, under Article 6(3)(c) of the European Convention on the Protection of Human Rights and Fundamental Freedoms, the principle *nemo plus juris in alium transferre potest quam ipse habet* and the principle of equal treatment.

5 The third and fourth subparagraphs of Article 17 of the Statute provide that:

'... parties [other than the Member States and the institutions of the Community or the States which are a party to the Agreement on the EEA] must be represented by a lawyer.

Only a lawyer authorized to practise before a court of a Member State or of another State which is a party to the Agreement on the European Economic Area may represent or assist a party before the Court.'

6 The first subparagraph of Article 19 of the Statute provides that:

'A case shall be brought before the Court by a written application addressed to the Registrar. The application shall contain the applicant's name and permanent address and the description of the signatory ...'.

7 Finally, the first subparagraph of Article 37(1) of the Rules of Procedure of the Court of Justice provides that:

'The original of every pleading must be signed by the party's agent or lawyer.'

8 The Court has already held that it is clear beyond all doubt from the third paragraph (formerly the second paragraph) of Article 17 and the first paragraph of Article 19 of the Statute and from the first subparagraph of Article 37(1) of the Rules of Procedure that an applicant must be represented by a person authorized for that purpose and that an action may be validly brought before the Court only if that person signs the application. Since no derogation from or exception to that obligation is provided for by the Statute or the Rules of Procedure, the submission of an application signed by the applicant himself can therefore not be sufficient for the purpose of bringing an action (see order of the Court of Justice of 15 March 1984 in Case 131/83 *Vaupel* v *Court of Justice*, not published in the ECR, paragraph 8).

9 The Court has therefore consistently held that an action brought which bears only the applicant's signature is inadmissible and that the corresponding case must be

removed from the register of the Court (see the orders in Case 10/81 *Farrall* v *Commission* [1981] ECR 717 and in Case 73/83 *Stavridis* v *Parliament* [1983] ECR 3803).

10 That applies even if the applicant is authorized to plead before a national court.

11 It follows from the wording of the third paragraph of Article 17 of the Statute, and in particular from the use of the term 'represented', that a 'party' within the meaning of that provision, whatever his standing, is not authorized to act on his own before the Court of Justice, but must use the services of a third party, who must be authorized to practise before a court of a Member State or of a State which is a party to the EEA Agreement. Other provisions of the Statute and of the Rules of Procedure (see the first paragraph of Article 19 and Article 29 of the Statute, and Article 37(1), Article 38(3) and Article 58 of the Rules of Procedure) confirm that a party and his counsel cannot be one and the same person. Moreover, as the Court observed in *Vaupel* v *Court of Justice*, cited above, paragraph 8, neither the Statute nor the Rules of Procedure of the Court of Justice provide any derogation from or exception to that rule.

12 The arguments submitted by Mr Lopes provide no grounds for departing from that interpretation. First, the obligation imposed on a 'party', even where he is a lawyer, to have recourse to a third party for the purposes of his representation before the Court, does not in any way restrict the means at that 'party's' disposal for pursuing his case and does not therefore adversely affect his rights in that regard. Mr Lopes cannot rely to any useful effect in that regard on Article 6(3)(c) of the European Convention for the Protection of Human Rights and Fundamental Freedoms, relating to the rights of the accused in criminal proceedings, since the present dispute does not concern 'criminal charges' within the meaning of that Convention. Nor does the obligation in question confer on the representative of a party more rights than those held by the party whom he represents, even if that party is a lawyer. Finally, such an obligation, which places the parties on the same footing as regards the presentation of their case before the Court of Justice, irrespective of their professional standing, does not infringe the principle of equal treatment.

13 Mr Lopes's appeal must therefore be declared inadmissible and the case removed from the register of the Court of Justice.

On those grounds,

THE COURT (Fifth Chamber)

hereby orders:

1. The appeal of Mr Lopes is inadmissible.

2. The case shall be removed from the register of the Court of Justice.

Luxembourg, 5 December 1996.

R. Grass — Registrar

L. Sevón — For the President of the Fifth Chamber