ORDER OF THE COURT (Fourth Chamber)
5 February 1998 *

In Case C-30/96 P,

Giovanni Battista Abello and Others,

Gerhard Riesch,

represented by Michele Tamburini and Franco Colussi, of the Milan Bar, with an address for service in Luxembourg at the latter's Chambers, 36 Rue de Wiltz,

appellants,

APPEAL against the judgment of the Court of First Instance of the European Communities (Fourth Chamber) in Joined Cases T-544/93 and T-566/93 *Abello and Others* v *Commission* [1995] ECR-SC II-815, seeking to have that judgment set aside,

the other party to the proceedings being:

Commission of the European Communities, represented by Gianluigi Valsesia, Principal Legal Adviser, acting as Agent, assisted by Alberto Dal Ferro, of the Vicenza Bar, with an address for service in Luxembourg at the office of Carlos Gómez de la Cruz, of its Legal Service, Wagner Centre, Kirchberg,

* Language of the case: Italian.

supported by

Council of the European Union, represented by Anna Lo Monaco, of its Legal Service, acting as Agent, with an address for service in Luxembourg at the office of Alessandro Morbilli, Manager of the Legal Affairs Directorate of the European Investment Bank, 100 Boulevard Konrad Adenauer,

intervener,

THE COURT (Fourth Chamber),

composed of: H. Ragnemalm, President of the Chamber, J. L. Murray (Rapporteur) and K. M. Ioannou, Judges,

Advocate General: P. Léger,
Registrar: R. Grass,

after hearing the Advocate General,

makes the following

Order

1 By application lodged at the Court Registry on 3 February 1996, Mr Abello and Others, together with Mr Riesch, brought an appeal against the judgment of the Court of First Instance of 7 December 1995 in Joined Cases T-544/93 and T-566/93 *Abello and Others* v *Commission* [1995] ECR-SC II-815 (hereinafter 'the judgment under appeal'), dismissing their action for annulment of the pay slips for December 1992 and January 1993 in so far as they were drawn up in accordance with the weightings fixed by Council Regulation (EEC, Euratom, ECSC) No 3761/92 of 21 December 1992 adjusting, with effect from 1 July 1992, the remuneration and pensions of officials and other servants of the European Communities

and the weightings applied thereto (OJ 1992 L 383, p. 1), Council Regulation (EEC, Euratom, ECSC) No 3765/92 of 21 December 1992 correcting, with effect from 1 January 1991, the weightings applicable in Denmark, Germany, Greece, Spain, France, Ireland, Italy, the Netherlands, Portugal and the United Kingdom to the remuneration and pensions of officials and other servants of the European Communities (OJ 1992 L 383, p. 9), and Council Regulation (EEC, Euratom, ECSC) No 3766/92 of 21 December 1992 correcting Regulation (ECSC, EEC, Euratom) No 3834/91 and Regulation (EEC, Euratom, ECSC) No 2014/92, with regard to the weightings applicable in Denmark, Germany, Greece, Spain, France, Ireland, Italy, the Netherlands, Portugal and the United Kingdom to the remuneration and pensions of officials and other servants of the European Communities (OJ 1992 L 383, p. 11), and the plea of illegality raised in respect of those regulations.

2 The Court of First Instance made the following observations regarding the relevant Community legislation:

'1. Equivalence of purchasing power — the principle that all officials and other servants of the Community, wherever they are assigned and in whichever currency their remuneration is paid, should have equal overall purchasing power (or "economic parity") — has its legal basis in Articles 63, 64 and 65 of the Staff Regulations of Officials of the European Communities (hereinafter "the Staff Regulations"); the same provisions apply to members of the temporary and auxiliary staff pursuant to Articles 20 and 64 of the Conditions of Employment of other Servants of the European Communities. Effect is given to that principle through the application to financial entitlements of weightings which reflect the ratio between the cost of living in Brussels (the reference city) and the various capitals of the Member States or other places where officials are employed.

2. By decision of 26 June 1976 (unpublished) laying down the method for adjusting the remuneration of officials and other servants of the European Communities, provision was made for the periodic review of weightings so as to monitor

whether they accurately reflect purchasing power equivalences between salaries in the various places of employment (Chapter II, paragraph 1, second subparagraph, of that decision).

3. By Decision 81/1061/Euratom, ECSC, EEC of 15 December 1981 amending the method of adjusting the remuneration of officials and other servants of the Communities (OJ 1981 L 386, p. 6), the Council laid down the detailed rules for the application of Article 65 of the Staff Regulations for the period from 1 July 1981 to 30 June 1991.

4. Decision 81/1061 made provision for the Council to adjust the weightings annually — in the context of the annual pay review under Article 65(1) of the Staff Regulations — on a proposal from the Commission and on the basis of information provided by the national statistical institutes, having regard to the joint cost-of-living index drawn up by the Statistical Office of the European Communities (hereinafter "Eurostat") in accordance with the "Fisher" method, and "taking into account the ratio between the cost-of-living index numbers in the ... countries [concerned] and the cost-of-living index number in Brussels and Luxembourg". Decision 81/1061 also provided that, in the event of a substantial change in the cost of living, interim adjustments would be made where necessary (Article 65(2) of the Staff Regulations) and confirmed at the time of the annual adjustments.

5. Decision 81/1061 also provided for the quinquennial review of weightings: on the occasion of each such review, Eurostat must verify, in agreement with the national statistical departments of the Member States, whether the ratios between weightings accurately reflect purchasing power equivalences between salaries paid to staff serving in the capitals of the Member States; such a check must also be carried out for other places of employment where there appears to be a danger of considerable distortion. On the basis of the results of that verification, the Commission must propose the quinquennial adjustment of weightings to the Council.

6. In the course of those checks, it had occasionally been noted that the way in which the joint index method had been implemented gave rise to significant disparities between the figures extrapolated using the joint index and the new findings of geographical surveys.

7. On 19 December 1991 the Council therefore adopted Regulations (ECSC, EEC, Euratom) Nos 3830/91, 3831/91, 3832/91, 3833/91 and 3834/91 amending the Staff Regulations and the Conditions of employment of other servants of the Communities with regard, *inter alia*, to the detailed rules for adjusting their remuneration and pensions, and the weightings applied thereto (OJ 1991 L 361, pp. 1, 7, 9, 10 and 13, respectively).

8. In particular, Regulation No 3830/91 renewed the existing method of adjusting remuneration for ten years, with certain amendments, incorporating it in the Staff Regulations as Annex XI. Under the new method, on the occasion both of the annual pay review and the interim adjustments, Eurostat is to calculate, in agreement with the national statistics institutes, the economic parities which establish the equivalence of purchasing power of the salaries of European officials serving in the capitals of the Member States and in certain other places of employment, with reference to Brussels. Thus the use of a joint index for calculating weightings was replaced by a method along the lines of that used for the quinquennial verification, definitive weightings being therefore fixed annually.

9. As from 1 July 1991, the new method for adjusting remuneration was to be taken into account in determining the weightings. However, on the occasion of the 1991 annual adjustment and the 1992 interim adjustment, that method could not be used to fix definitive weightings on account of the lack of statistical data.

Accordingly, the weightings were fixed by the Council subject to later rectification following the quinquennial verification of the weightings for the period from 1 January 1986 to 31 December 1990.

10. It was against that background that, on 21 December 1992, the Council adopted Regulations (ECSC, EEC, Euratom) Nos 3765/92, 3766/92 and 3761/92 adjusting, with effect from 1 January 1991, 1 July 1991 and 1 July 1992, respectively, the remuneration and pensions of officials and other servants of the European Communities, and the weightings applicable thereto (OJ 1992 L 383, pp. 9, 11, 1 respectively). Regulation No 3765/92, which gives effect to the quinquennial review, is based on Decision 81/1061, whereas Regulations Nos 3761/92 and 3766/92 are based on Annex XI to the Staff Regulations. Those Council regulations fix, *inter alia*, a weighting for Italy of 111.5 with effect from 1 January 1991, 112.2 with effect from 1 July 1991 and 113.4 with effect from 1 July 1992, and a specific weighting for Varese of 104.3, 103.5 and 105.8, respectively, for the same dates'.

3 The Court of First Instance made the following findings of fact:

'11. The applicants in Case T-544/93 are 1 405 Commission officials who are employed at Ispra (Varese).

12. The applicant in Case T-566/93 is a Commission official employed at Ispra (Varese).

13. In December 1992 the applicants received the adjustments of their remuneration calculated on the basis of Regulations Nos 3765/92 and 3766/92 and, in January 1993, they received their pay slips for December 1992, drawn up on the basis of Regulation No 3761/92.

14. By memoranda of 18 March 1993, Mr Riesch, acting alone, and the other applicants, acting jointly, submitted complaints under Article 90(2) of the Staff Regulations, challenging the weightings fixed by Regulations Nos 3765/92, 3766/92 and 3761/92.

15. By letter of 12 August 1993 the Commission notified Mr Riesch of a decision rejecting his complaint.

16. The Commission did not respond to the complaints submitted by the other applicants.

17. Those are the circumstances in which, by application lodged at the Registry of the Court of First Instance on 18 October 1993, Mr Abello, together with 1 404 other officials or servants, brought an action, registered as Case T-544/93.

18. By application lodged at the Registry of the Court of First Instance on 15 November 1993, Mr Riesch brought an action, registered as Case T-566/93.

19. By orders of the President of the Fifth Chamber of the Court of First Instance of 2 and 3 March 1994, the Council was given leave to intervene in Cases T-566/93 and T-544/93 in support of the forms of order sought by the Commission.

20. By order of the President of the Fifth Chamber of the Court of First Instance of 20 June 1994, Cases T-544/93 and T-566/93 were joined for the purposes of the oral procedure and the judgment.'

The judgment under appeal

4 Before the Court of First Instance, the appellants relied on six pleas in law in support of their application for annulment: (i) infringement of Articles 64 and 65 of the Staff Regulations; (ii) breach of the principle of equal treatment; (iii) misuse of powers, consisting in the application of the weightings fixed by the regulations; (iv) failure to give adequate reasons for the regulations at issue; (v) breach of the principle of the protection of legitimate expectations and acquired rights; and (vi) infringement of Article 11 of Annex XI to the Staff Regulations (paragraph 31 of the judgment under appeal).

5 The Court of First Instance found that the second plea merged with the first plea which, in fact, comprised three separate legal propositions: (i) the living conditions referred to in Article 64 of the Staff Regulations had been erroneously assessed; (ii) the wrong statistical method had been used to determine the basic economic parity in respect of the cost of accommodation for owner-occupiers; (iii) certain basic economic parities had been miscalculated (paragraph 33).

6 As regards the first proposition, the Court of First Instance formed the view that the 173 basic parities *vis-à-vis* purchasing power, chosen by Eurostat in agreement with the national statistical departments, serve as suitable indicators to reflect, in a manner which is inevitably approximative, the cost of living and, accordingly, the living conditions of Community officials. They make it possible to calculate with the greatest possible accuracy the expenditure — allowing for different spending habits — borne by officials' salaries (paragraph 41).

7 Accordingly, the Court of First Instance found that, in relying on a system of indicators essentially related to consumer goods and services, the Council did not disregard the general rules which it had itself laid down in Articles 64 and 65 of the Staff Regulations; nor had it breached the principle of equal treatment (paragraph 42).

8 As regards the second proposition, the appellants maintained that the introduction of a new statistical method for determining basic parity No 71 concerning the cost of accommodation for owner-occupiers gave rise to discrimination against officials employed at Ispra (paragraph 44).

9 On that point, the Court of First Instance noted first that, on a number of occasions, the Commission had stated (and the appellants did not challenge its assertion) that the notional rent had been approved by national statistical departments and applied in all places of employment (paragraph 59).

10 The Court of First Instance went on to point out that the Staff Regulations are silent as to the choice of statistical method for establishing the weightings (paragraph 60).

11 As regards the method of gathering the data which will most accurately reflect the rental situation in the places where officials are employed, the Court of First Instance considered that the practice of making enquiries through estate agents — a method used by the Statistical Office in all places where officials are employed — had enabled the accommodation costs of the officials and other servants of the Commission employed at the Ispra Joint Research Centre to be ascertained in a manner which adequately reflected the special characteristics of the housing area in question and the standard of living of the staff affected (paragraph 64).

12 Lastly, the Court of First Instance considered that the statistical method with which the appellants took issue was not vitiated by a manifest error of assessment by virtue of the fact that the Commission had altered it with respect to the method used for the 1985 verification. According to the explanations provided on that point by the Commission (which the appellants did not challenge), although, for the purposes of the 1985 verification, account had been taken of the expense incurred through investing in and maintaining accommodation, this was by way of exception — in acknowledgment of the special circumstance that the questions put to officials in 1985 covered rents of the kind subsidised by statute, such as the 'equo canone' (fair rent), or those agreed on the basis of 'patti in deroga' (special agreements), that is to say, very low rents (paragraph 65).

13 On the basis of all those considerations, the Court of First Instance formed the view that the Council had neither exceeded the margin of discretion accorded to it under the Staff Regulations nor infringed either Articles 64 and 65 or the principle of equal treatment, and had acted with due prudence and reasonableness in basing the definition of weightings in the regulations at issue on the notional-rent method for the purpose of determining the parities in respect of accommodation for owner-occupiers (paragraph 66).

14 As for the third part of the first plea, alleging miscalculation of certain basic parities, the Court of First Instance verified that those had not been established outside reasonable parameters or in a way which was manifestly erroneous. It reached the conclusion (paragraphs 78 to 81) that the third part of the first plea was unfounded (paragraph 82).

15 The Court of First Instance therefore rejected the first and second pleas in law (paragraph 83).

16 By their third plea, the appellants maintained that the Council and the Commission had misused their powers in so far as the weightings fixed by the regulations at issue had not been adopted with the aim of ensuring equivalence of purchasing power for officials serving in the various places of employment and of adjusting

their remuneration to meet the cost of living, but rather with a view to curbing increases in remuneration, at least so far as concerned the remuneration of officials employed at Ispra (paragraph 84).

17 On that point, the Court of First Instance considered that the weightings at issue had been determined in accordance with the Staff Regulations and using statistical methods approved by the national statistical departments, in order to ensure, so far as is possible, that the remuneration of the various Community officials commanded equivalent purchasing power. It found, furthermore, that the appellants had failed to produce any other relevant corroborative evidence to suggest that the regulations at issue were vitiated by misuse of powers. It therefore held that the third plea in law was unfounded and had to be rejected (paragraph 86).

18 By their fourth plea, the appellants argued that the regulations at issue were insufficiently reasoned (paragraph 87).

19 In that regard, the Court of First Instance noted that the regulations at issue contained clear references to the provisions of the Staff Regulations applied and indicated that they they had been adopted in connection with the annual and quinquennial verifications. Furthermore, it was apparent from those regulations that the new weightings had been introduced, first, because the verifications had revealed certain disparities between the weightings applicable in certain countries of employment and those actually in force and, secondly, on account of the temporary nature of the economic parities fixed by Council Regulation No 3834/91 and Council Regulation (EEC, Euratom, ECSC) No 2014/92 of 20 July 1992 adjusting the weightings applied in certain Member States to the remuneration and pensions of officials and other servants of the European Communities (OJ 1992 L 205, p. 1) (paragraph 90).

20 The Court of First Instance accordingly held that the regulations at issue fulfilled the requirements of Article 190 of the Treaty and that the plea alleging that they lacked a sufficient statement of reasons had therefore to be rejected (paragraph 91).

21 As for the fifth plea in law, alleging breach of the principle of the protection of legitimate expectations and acquired rights, the Court of First Instance held that, with regard to the establishment of weightings, the officials' situation could not be regarded as one in which the administration led them to entertain reasonable expectations, since it never gave assurances as to the application of a particular statistical method or an automatic pay increase in the context of the adjustment and review of weightings (paragraph 95). It therefore rejected the fifth plea (paragraph 96).

22 By their sixth plea, the appellants maintained that Eurostat had failed to fulfil its obligation under Article 11 of Annex XI to the Staff Regulations to monitor the quality of basic data and statistical methods used to work out the factors taken into account for the adjustment of remuneration, particularly with regard to parities Nos 71 and 45 (paragraph 97).

23 The Court of First Instance considered that, according to the documents before it, Eurostat had been constantly endeavouring to perfect statistical methods so as to gauge in the most appropriate manner possible the cost of living in the various places of employment of officials, in order to ensure, so far as is possible, that the remuneration of the various Community officials commands equivalent purchasing power. Secondly, the criticised weightings had been adopted in agreement with the national statistical departments on the basis of data which they had furnished in accordance with Annex XI to the Staff Regulations. In those circumstances, the Court of First Instance reached the conclusion that neither the Commission nor Eurostat was obliged to provide officials with all the data on the basis of which the statistical calculations determining the basic parities had been made (paragraph 99). The sixth plea was therefore rejected (paragraph 100).

The appeal

24 By their appeal, the appellants are asking this Court to set aside the judgment under appeal and either to adjudicate on the dispute itself or to refer the case back to the Court of First Instance in order for that Court to (i) direct the Commission to provide details of the data (statistical numbers and returns, and prices) taken as a basis for determining the basic parities used for fixing the weightings laid down in Regulations Nos 3761/92, 3765/92 and 3766/92; (ii) order experts to be consulted on the question whether those data and the conclusions based thereon, so far as concerns the fixing of the above weightings, are satisfactory; (iii) declare that the remuneration paid to the appellants, as evidenced by the pay slips for December 1992 and the following months, does not represent their due and, consequently, that Regulations Nos 3761/92, 3765/92 and 3766/92 do not apply to the appellants; (iv) declare that those pay slips are unlawful and therefore void; (v) annul the Commission's decision of 12 August 1993 rejecting the complaint submitted by Mr Riesch under Article 90(2) of the Staff Regulations; (vi) rule that all measures entailed by the above findings should be adopted; and (vii) order the Commission to pay the amounts due, together with compensation for the damage caused (particularly that caused by currency devaluation between the date on which the payments fell due and final settlement), together with legal costs, calculated by reference to the maximum amounts chargeable in accordance with the legal fee scales currently in force in Italy.

Pleas in law

25 The appellants have put forward ten pleas in law in support of their appeal.

26 The first plea is that, in the judgment under appeal, the Court of First Instance disregarded the basic principles of procedural law, thereby infringing Article F(2)

of the Treaty on European Union, Article 81, penultimate indent, of the Rules of Procedure of the Court of First Instance and Article 136 of the EAEC Treaty read in the light of Article 140a(2) thereof.

27 The first part of the second plea is that the finding by the Court of First Instance that Article 64 of the Staff Regulations is to be interpreted as meaning that the weighting must relate solely to expenditure liable to be incurred by officials for the purchase of consumer goods and services is at odds with that provision's reference to 'living conditions in the various places of employment'. Consequently, the Court of First Instance failed to state adequate reasons for rejecting their plea that the Commission had infringed Article 64. The second part of the appellants' second plea is that the Court of First Instance did not take into account their arguments that weighting must be determined by reference to all potential purchases on which Community officials are likely to spend their remuneration, and to the percentage spread reflecting the way in which the proportion of salary available for the purchase of consumer goods and services varies according to the standard of living in the various places of employment. Furthermore, in determining the economic parities, the Commission based itself exclusively on a single pattern of consumption and took no account of other essential factors which go towards the cost of living, such as savings or investments.

28 According to the third plea, the Court of First Instance gave no reasons, or insufficient reasons, for its decision concerning the Council's introduction of a new method for determining basic parity No 71 (accommodation: owner-occupiers). The appellants maintain that the Council thereby infringed the principle of equal treatment, since officials at the Ispra Centre were singled out for special treatment — unaccounted for by any special development — and neither the Commission nor the Court of First Instance was able to explain that anomaly. The appellants accordingly argue that the judgment under appeal, in so far as it justifies the alteration of the method previously used, is unfounded.

29 The fourth plea is that the Court of First Instance did not adequately examine the miscalculation which, according to the appellants, vitiates basic parity No 71 so far as concerns both the method used and the facts relied upon. They submit, first, that the method used, albeit suitable where infrastructures in the various sample regions are similar, is not appropriate in the present case, where the real estate markets in the sample areas have very different infrastructures. As regards the facts, the appellants observe that the judgment under appeal wholly fails to address the question whether the data give a true picture.

30 The fifth plea is that the Court of First Instance did not take into account the appellants' heads of complaint concerning the miscalculation of parities Nos 131 (telephone bills), 127 (rail journeys) and 45 (non-alcoholic beverages). As regards parity No 131, the appellants point out that the Court of First Instance based its finding on the assertion that they had failed to adduce any evidence to suggest that the explanations provided by the Commission were unsatisfactory. On the contrary, they had not only put forward arguments, but had also produced specific documents highlighting both the impact of the error in question and the manifest contradiction between the data relied on and the real facts. As for parity No 127, the Court of First Instance did not regard their criticisms as well founded, but none the less accepted their argument that the Commission's approach was illogical. Lastly, according to the appellants, although Eurostat's error regarding parity No 45 cannot be denied, the Court of First Instance declared that it was not serious, given its negligible effect on the weighting. In fact, however, the error was not only manifest but serious.

31 The sixth plea is that the judgment under appeal did not attach any importance to the other arguments, raised by Mr Riesch, concerning other parities. In so far as the Court of First Instance refused to grant the measures of inquiry requested and did not take the appellants' criticisms into account, the position it adopted was arbitrary.

32 The seventh plea is that the Court of First Instance wrongly rejected the appellants' request for an expert's report to confirm their arguments concerning value deviations or volumetric ratios.

33 The eighth plea is that the Court of First Instance misused its powers in so far as it adopted the easiest and most expedient course by accepting one party's arguments without adequate explanation, and not even considering those submitted by the other party.

34 The appellants' ninth plea is that insufficient grounds are given in the judgment under appeal so far as concerns their plea that Council Regulations Nos 3761/92 and 3765/92 lacked a statement of reasons. According to the appellants, the Court of First Instance proceeded in a wholly perfunctory manner.

35 The tenth plea is that the change made by the Council regarding basic parity No 71 (accommodation: owner-occupiers) breaches the principle of the protection of legitimate expectations and acquired rights, which the Court of First Instance failed to protect. According to the appellants, the refusal to take the special nature of the Ispra region into account — contrary to past practice — when determining basic parity No 71 frustrated the legitimate expectation which the appellants entertained regarding the method of calculation used. On that point, they emphasise in particular that the change of method did not reflect any change in the factual circumstances.

Findings of the Court

36 Under Article 119 of its Rules of Procedure, where an appeal is clearly inadmissible or clearly unfounded, the Court may at any time dismiss it by reasoned order.

37 Pursuant to Article 168a of the Treaty and Article 51 of the EC Statute of the Court of Justice, appeals are to be limited to points of law and to lie solely on the grounds of lack of competence of the Court of First Instance, a breach of procedure before it which adversely affects the interests of the appellants as well as the infringement of Community law by the Court of First Instance.

38 Article 112(1)(c) of the Rules of Procedure of the Court of Justice provides that appeals are to contain the pleas in law and legal arguments relied on.

39 This means that an appeal must indicate precisely the contested elements of the judgment which the appellant seeks to have set aside, and also the legal arguments specifically advanced in support of the appeal (order of 14 December 1995 in Case C-173/95 P *Hogan* v *Court of Justice* [1995] ECR I-4905, paragraph 20).

40 It has been consistently held that that requirement is not satisfied by an appeal which confines itself to repeating or reproducing word for word the pleas in law and arguments previously submitted to the Court of First Instance, including those based on facts expressly rejected by that court; in reality, such an appeal

amounts to no more than a request for a reexamination of the application submitted to the Court of First Instance, a matter which falls outside the jurisdiction of the Court of Justice, by virtue of Article 49 of its Statute, cited above (order of 26 September 1994 in Case C-26/94 P *Mrs X* v *Commission* [1994] ECR I-4379, paragraph 13).

41 As regards the first and sixth pleas, suffice it to note that the appellants have failed to put forward any arguments to establish that, in making its findings, the Court of First Instance erred in law (orders of 7 March 1994 in Case C-338/93 P *De Hoe* v *Commission* [1994] ECR I-819, paragraph 18; of 1 February 1993 in Case C-318/92 P *Moat* v *Commission* [1993] ECR I-481, paragraph 13; and of 12 December 1996 in Case C-49/96 P *Progoulis* v *Commission* [1996] ECR I-6803, paragraph 24).

42 The first and sixth pleas must therefore be rejected as clearly inadmissible.

43 As regards the first part of the second plea, it is clear from paragraph 40 of the judgment under appeal that the Court of First Instance did indeed examine the question of the interpretation of Article 64 of the Staff Regulations and that it stated grounds sufficient in law to support its finding that the complaint on this point was unfounded.

44 The first part of the second plea must therefore be rejected as clearly inadmissible.

45 As regards the second part of the second plea and the first part of the fourth plea, it should be recalled that an appeal cannot merely repeat the pleas in law and arguments already submitted to the Court of First Instance without putting forward arguments to establish that it erred in law.

46 In the present case, as is clear from paragraphs 35 and 45 of the judgment under appeal, the arguments relied on merely reproduce those put forward before the Court of First Instance and subsequently rejected (paragraphs 39 to 43 and 52 to 67, respectively), and the appellants fail to show in what respect, in making its findings, the Court of First Instance erred in law.

47 The second part of the second plea and the first part of the fourth plea must therefore be rejected as clearly inadmissible.

48 As regards the third plea, it is clear from paragraphs 9 to 13 of the present order that, contrary to the appellants' assertion, the Court of First Instance responded to their complaint concerning the introduction of a new statistical method for determining basic parity No 71 (accommodation: owner-occupiers) by finding, essentially, that they had failed to establish the existence of a manifest error of assessment vitiating the new method introduced by the Council.

49 As regards, moreover, the content of the statement of reasons, it should be noted that the third plea is based on questions of fact which fall outside this Court's appellate jurisdiction. The Court of First Instance has exclusive jurisdiction to find the facts, save where a substantive inaccuracy in its findings is attributable to the documents submitted to it, and to appraise the facts so found. That appraisal does not, save where the clear sense of the evidence has been distorted, constitute a point of law which is subject, as such, to review by the Court of Justice (Case C-53/92 P *Hilti* v *Commission* [1994] ECR I-667, paragraph 42).

50 The third plea must therefore be rejected as clearly unfounded and clearly inadmissible.

51 So far as concerns the second part of the fourth plea and the fifth and tenth pleas, the appellants merely contest the findings of fact made by the Court of First Instance.

52 It is clear from the provisions referred to in paragraph 37 of the present order that the appeal may rely only on grounds relating to the infringement of rules of law, to the exclusion of any appraisal of the facts.

53 Consequently, where the Court of First Instance has made findings of fact or appraisals of the evidence, the Court of Justice has jurisdiction only to exercise the review required of it under Article 168a of the Treaty in respect of the legal characterisation of those facts and the inferences in law which the Court of First Instance has drawn from it (Case C-136/92 P *Commission* v *Brazzelli Lualdi and Others* [1994] ECR I-1981, paragraphs 48 and 49). Similarly, the Court of Justice does not in principle have jurisdiction to examine evidence in support of those facts which the Court of First Instance has accepted. Where evidence has been properly obtained, and the general principles of law and rules of procedure governing the burden of proof and the taking of evidence have been observed, it is for the Court of First Instance alone to assess the weight to be attributed to the evidence produced (*Commission* v *Brazzelli Lualdi and Others*, cited above, paragraph 66).

54 The second part of the fourth plea and the fifth and tenth pleas must therefore be rejected as clearly inadmissible.

55 As regards the seventh and eighth pleas, suffice it to note that the appellants do not invoke infringement of any rule of law. With regard to the seventh plea, in particular, the appellants neither specify the error complained of nor the argument on

which that plea is based. With regard to the eighth plea, the appellants neither identify the error of law allegedly committed in the judgment under appeal nor put forward any supporting arguments.

56 The seventh and eighth pleas must therefore be rejected as clearly inadmissible.

57 By their ninth plea, the appellants submit that the judgment under appeal gives insufficient grounds in disposing of the plea that the regulations at issue failed to state reasons.

58 The appellants do not specify in what respect the Court of First Instance failed to state grounds for its rejection of their plea.

59 The ninth plea must therefore be rejected as clearly inadmissible.

60 In the light of all the foregoing considerations, the pleas in law put forward by the appellants in support of their appeal are either clearly inadmissible, or clearly unfounded. The appeal must therefore be dismissed pursuant to Article 119 of the Rules of Procedure.

Costs

61 Under Article 69(2) of the Rules of Procedure, which applies to appeal proceedings by virtue of Article 118 thereof, the unsuccessful party is to be ordered to pay the costs, if they have been applied for. Since the appellants have been unsuccessful, they must be ordered to pay the costs.

On those grounds,

THE COURT (Fourth Chamber),

hereby orders:

1. The appeal is dismissed.

2. Mr Abello and Others and Mr Riesch shall pay the costs.

Luxembourg, 5 February 1998.

R. Grass — Registrar

H. Ragnemalm — President of the Fourth Chamber