JUDGMENT OF THE COURT (SECOND CHAMBER)
19 NOVEMBER 1981 [1]

Paolo Benassi
v Commission of the European Communities

(Staff Regulations of Officials — Transfer of pension rights)

Case 194/80

Officials — Remuneration — Basic salary — Concept — Application for the determination of the years of pensionable service to be credited in the event of transfer of pension rights

(Staff Regulations of Officials, Art. 66 and Annex VIII, Art. 11 (2))

The basic salary, as provided for in Article 66 of the Staff Regulations of Officials, comprises the amounts shown in the table contained in that provision, adjusted, where appropriate, by the weighting adopted for the seats of the Communities by the Council in the light of the annual review provided for by Article 65, and the meaning of the expression "basic salary" cannot vary from one provision to another in the absence of objective considerations justifying such a difference.

The concept of basic salary as thus defined is valid in particular for the application of Article 11 (2) of Annex VIII to the Staff Regulations.

In Case 194/80

PAOLO BENASSI, an official in the Terminology Department of the Commission of the European Communities in Luxembourg, residing at 7 Rue Kennedy, Bridel, with an address for service in Luxembourg at 18A Rue des Glacis, at the Chambers of his legal representative, Victor Biel, of the Luxembourg Bar,

applicant,

1 — Language of the Case: French.

COMMISSION OF THE EUROPEAN COMMUNITIES, represented by its Legal Adviser, Joseph Griesmar, acting as Agent, assisted by Robert Andersen, of the Brussels Bar, residing at 214 Avenue Montjoie, Brussels, with an address for service in Luxembourg at the office of Oreste Montalto, a member of its Legal Department, Jean Monnet Building, Kirchberg,

defendant,

APPLICATION for a declaration that the number of years of pensionable service with which the applicant is to be credited by the Commission under its own pension scheme, on the basis of the amount of the actuarial equivalent or the sums repaid, referred to in Article 11 (2) of Annex VIII to the Staff Regulations, must, pursuant to the General Provisions for giving effect to the said Article 11 (2), and in particular pursuant to Article 3 (3) of the said General Provisions, be calculated with reference to the official's basic annual salary, irrespective of the weighting, which in this case is 148.7 pursuant to Regulation No 2998/75 of the Council of 17 November 1975,

THE COURT (Second Chamber)

composed of: O. Due, President of Chamber, P. Pescatore and A. Chloros, Judges,

Advocate General: F. Capotorti
Registrar: J.A. Pompe, Deputy Registrar

gives the following

JUDGMENT

Facts and Issues

The facts of the case, the course of the procedure and the conclusions, submissions and arguments of the parties may be summarized as follows:

I — Facts and written procedure

By decision of 8 January 1975, with retroactive effect from 1 December 1974, the date on which he actually commenced duties with the Communities, Paolo Benassi was appointed a probationary official in Grade LA 8, Step 2, in the Medium- and Long-term Translation Division in Luxembourg.

By decision of 29 September 1975, he was established in the above-mentioned post and grade, with effect from 1 September 1975.

When he was established, his basic salary was BFR 34 644, whilst the weighting for Belgium and Luxembourg was 148.7 pursuant to Regulation No 2998/75 of 17 November 1975, which took effect retroactively on 1 July 1975.

In Italy, his country of origin, the applicant had completed 186 months of pensionable service, which represented the sum of LIT 4 478 420, corresponding to BFR 343 495 at the relevant rates of exchange.

Paolo Benassi availed himself of the right granted to officials in Article 11 (2) of Annex VIII to the Staff Regulations of Officials to pay to the Communities either the actuarial equivalent of the retirement pension rights acquired before their entry into the service of the Communities or the sums repaid to them from the pension fund of the government administration, organization or undertaking at the date of their leaving its service.

Taking into account his grade on establishment, the Commission determined the number of years of pensionable service with which he was to be credited under its own pension scheme on the basis of the sums repaid. By a memorandum dated 17 March 1980 it decided upon a period of two years, three months and seven days.

In doing so the Commission calculated the number of years of pensionable service by applying Article 3 (3) of the General Provisions for giving effect to Article 11 (2) of Annex VIII to the Staff Regulations.

By letter of 17 March 1980, received at the Secretariat General of the Commission on 18 March 1980, the applicant lodged a complaint under Article 90 of the Staff Regulations contesting essentially the application of the weighting to his basic annual salary,

arguing that the effect of that method would be to penalize him twice, in the event of his retiring to Italy: once because of the application of the weighting to his basic annual salary for the purpose of calculating the number of years of pensionable service with which he was to be credited for his retirement pension, and again by reason of the application to the amount of that pension, when granted to him, of the weighting applicable to the pensions of retired officials who declare their residence to be in Italy. According to the applicant, the number of years of pensionable service with which he is to be credited should be calculated having regard to his basic annual salary at the time of his establishment without the application of the weighting and he considers that he is entitled to be credited with three years, four months and fifteen days.

In its reply dated 2 September 1980 the Commission rejected the complaint, stating that the basic annual salary for the purpose of calculating the number of years of pensionable service to be credited to an official was determined in accordance with the principles laid down by the Court of Justice of the European Communities in its judgment of 13 July 1978 in Case 114/77 *Jacquemart* v *Commission* [1978] ECR 1697).

The applicant did not receive the Commission's reply until 3 October 1980. He therefore considered that there had been an implied decision rejecting his complaint, as from 18 July 1980, and he lodged this application, which was received at the Court Registry on 30 September 1980.

Upon hearing the report of the Judge-Rapporteur and the views of the Advocate General, the Court (Second Chamber) decided to open the oral procedure without any preparatory inquiry.

II — Conclusions of the parties

The *applicant* claims that the Court should:

— Admit this application in the form in which it is presented;

— Declare it admissible;

— As to the substance of the case, Declare that, for the application of the General Provisions giving effect to Article 11 (2) of Annex VIII to the Staff Regulations, the basic salary must be that specified in Article 66 of the Staff Regulations, without any weighting;

— Consequently, and in the exercise of its unlimited jurisdiction, declare that the Commission must accept, for the purpose of the transfer under Article 11 (2) of Annex VIII to the Staff Regulations, a period of three years, four months and fifteen days;

— Otherwise, refer the case back to the Commission for a fresh calculation on the basis of the basic salary as determined in Article 66 of the Staff Regulations without any weighting;

— In any event, order the Commission to pay the costs.

The *defendant* contends that the Court should:

— Declare the application unfounded; and

— Award costs in the manner prescribed by law.

III — Submissions and arguments of the parties

Admissibility

The *applicant* is of the opinion that his application is admissible because it has been lodged within the prescribed period

and because he has an objective grievance by virtue of the fact that, as a result of the method of calculation which the Commission seeks to apply, he has lost a full year, one month and several days from the period to be taken into account for the purpose of calculating his pension on the day of his retirement.

In this regard, the applicant refers to Case 17/78 *Deshormes* v *Commission* ([1979] ECR 189) in which the Court held that an official has a legitimate and present interest in taking action against a measure laying down his rights upon retirement.

The *defendant* is also of the opinion that there are no grounds for contesting the admissibility of the application.

Substance

1. The concept of basic salary

The *applicant* relies on Article 3 (3) of the General Provisions giving effect to Article 11 (2) of Annex VIII to the Staff Regulations of Officials which provides that conversions for calculating the number of years of pensionable service to be credited in the application of the article in question are to be made with reference to the basic salary.

In the applicant's view the basic annual salary is the sum of the twelve monthly basic salary payments and as a result Article 66 of the Staff Regulations, which defines the basic salaries for each grade and step, comes into operation.

The Commission is therefore clearly confusing remuneration in the strict sense with basic salary.

The *defendant* states in reply that the interpretation adopted by the applicant disregards the fact that for a number of years, and in particular at the time when he was established, adjustments in the salaries of officials of the Communities, which were intended to reflect the general trend of real earnings in the Communities, were carried out by raising basic salaries, whilst adjustments intended to take into account variations in the cost of living were effected by amending the weightings.

In this connection the Commission cites Case 114/7 *Jacquemart* v *Commission*, in which the Court, taking the view that Article 65 of the Staff Regulations allowed the Council to choose the most suitable ways and means of implementing a remuneration policy consonant with the criteria adopted in that article, considered that although adjustment of remuneration by adjustment of the basic salaries shown in the table incorparated in Article 66 might appear to be more in line with the procedure laid down in Articles 64 and 65, the Council was nevertheless at liberty to raise the level of remuneration by applying a weighting to those amounts. Drawing a distinction between geographical weightings as provided for in Article 64 of the Staff Regulations and weightings which may be applied by the Council under Article 65 in order to fix the level of the various elements comprising the remuneration of officials employed at the provisional seats of the Communities, from which level the remuneration for the other places of employment is derived, the Court decided in the same case that although the former were not part of the basic salary, the latter were. The Commission therefore concludes that in this case it was justified in calculating the number of years of pensionable service to be credited to the applicant with reference to the amount shown in the table incorporated in Article 66 of the Staff Regulations, after application of the

weighting appropriate to the remuneration of officials employed at the provisional seats of the Communities, namely 147.8, and that in so doing it merely calculated the number of years of pensionable service with reference to the basic annual salary as defined by the Court.

2. The consequences of the method of calculation adopted by the Commission

The *applicant* challenges the method of calculation adopted by the Commission, pointing out its unacceptable consequences in the form of the absurd and discriminatory disparities to which he alleges it gives rise. He considers that as a result of the illogicality of the method applied by the Commission he would be penalized twice if he were to retire to Italy.

The *defendant* maintains that the applicant's arguments are based on a confusion between the geographical weightings referred to in Article 64 and the weightings determined until 1976 under Article 65 of the Staff Regulations in order to fix the remuneration levels of officials employed at the provisional seats of the Communities, on the basis of which the remuneration for the other places of employment is determined. According to the Commission, regardless of the applicant's place of employment at the time of the transfer of his pension rights, the basic annual salary would have been determined in the same way. In other words, it would have been equal to twelve times the amount shown in the table incorporated in Article 66 of the Staff Regulations, after application of the weighting of 147.8 applicable to the remuneration of officials employed at the provisional seats of the Communities.

In response to the applicant's argument that if he retired to Italy he would be penalized in so far as his pension would be subject to the weighting applicable in relation to that country, the defendant contends in the first place that such an argument is inadmissible on the ground that it is based upon a mere hypothesis which will be fulfilled, if ever, only at retirement age, so that the applicant has no present and well-defined interest. Moreover, according to the defendant, the argument is unfounded in any case since application of the geographic weighting to the pensions of retired officials who have declared themselves resident in Italy does not entail any advantage or disadvantage for them with respect to other retired officials who have established their residence elsewhere.

According to the defendant, the geographical weightings, far from destroying equality as between officials, achieve equality in so far as, by reason of their corrective effect, they are specifically intended to ensure that all retired officials have the same purchasing power regardless of where they live.

3. The scope of the *Jacquemart* judgment

The *applicant* contests the general and legislative character which the Commission seeks to attribute to the judgment in *Jacquemart* v *Commission* by relying on paragraph 22 of the decision in which it is stated that "the basic salary as referred to in Article 66 of the Staff Regulations comprises the amounts included in the table contained in that article, subject, where appropriate, to the weighting adopted for the provisional seats by the Council". According to the applicant, that judgment is *res inter alios acta* as is evidenced by the reservation at

the end of paragraph 24 of the same judgment ("without there being any objective consideration to justify such a difference").

The applicant observes that there is a fundamental and objective difference between the *Jacquemart* case and this case. The former was concerned with the calculation of a severance grant, which is merely accumulated remuneration. This case, on the contrary, is concerned with a formula to be applied for converting and transferring pension rigths.

The *Jacquemart* judgment rightly decided that the calculation of the severance grant should take account of the weighting and it was in that regard that the grounds of the decision placed emphasis on the principle of equality between officials.

The applicant's view, however, is that for the calculation of pension rights the uniform application of the provisions of Article 3 (3) of the General Provisions giving effect to Article 11 (2) of Annex VIII to the Staff Regulations, which make reference to the basic salary, ensures that there is no danger of unequal treatment. But that danger exists, inasmuch as, since the *Jacquemart* judgment, a concept different from the one previously adopted is applied for the calculation of transferred pension rights, namely the basic salary provided for in Article 66 of the Staff Regulations, without any weighting.

The applicant maintains that the latter definition of the term "basic salary" was accepted upon adoption of the General Provisions giving effect to Article 11 (2) of Annex VIII, which entered into force on 1 July 1969, and that it should be interpreted in that way, in accordance with the spirit which prevailed when the provisions in question were adopted. If the Commission wishes to adopt an interpretation of the term "basic salary" in line with the *Jacquemart* judgment, it ought, in the applicant's view, to take steps to amend certain provisions which are tied to the concept of basic salary, such as Article 72 (3) of the Staff Regulations and Article 8 (2) of the Rules on Sickness Insurance or Article 73 (1) of the Staff Regulations relating to the official's contribution in respect of occupational diseases and accidents.

In seeking to define the basic salary in the light of the *Jacquemart* judgment, the Commission is overlooking the relativity of *res judicata* and is endowing that judgment with retroactive effect, which, according to the applicant, is contrary to all legal practice.

According to the applicant, it is clear that in September 1975, when he was established, the Commission regarded as basic salary only the salary shown in the table in Article 66 of the Staff Regulations, which in the case of the applicant would give an annual sum of BFR 415 728 and not the sum of BFR 618 188 which the Commission seeks to impose on the basis of the above-mentioned judgment of the Court. He maintains that the aim of that judgment was merely to avoid unequal treatment as between officials and it was against that background that the Court decided that the severance grant was merely an accumulation of actual remuneration, whilst attaching to that decision an express reservation as to the objective and general validity of the considerations on which it was based.

The applicant observes, moreover, that despite the authority enjoyed by the judgments of the Court, an individual decision cannot in any way alter the law as agreed upon between the parties, and that, even if there were to be a change in legislation today, that change could not

affect a situation for which, in the applicant's opinion, the basis should be the salary taken into consideration in September 1975, at the time when he was established.

The *defendant* maintains that the Court's interpretation of the Staff Regulations is not confined to the case in point, but is of general application and that the creative role of case-law, and in particular that of the Court of Justice, in the formation and developpment of Community law is too well known and recognized to be contested.

The Commission states that the Court, in its judgment of 9 June 1964 in Joined Cases 79/63 and 82/63 *J. Reynier and P. Orba* v *Commission* [1964] ECR 259, emphasized the importance of judicial interpretation of the Staff Regulations and stated that such interpretation might, in the same way as the Staff Regulations themselves, be relied upon against all the institutions of the Community.

The defendant states that it has thus at all times taken account of the judgments of the Court in applying those provisions of the Staff Regulations which have been judicially interpreted, taking the view that it was obliged immediately to apply any rule whose meaning and scope had been defined by the Court. It points out that it proceeded in that manner in implementing the judgments of the Court of 7 June 1972 in Cases 20/71 *Sabbatini* v *European Parliament* and 32/71 *Chollet*, née *Bauduin* v *Commission*, regarding the grant or restoration, as from the date of the judgment, of the expatriation allowance for female officials who had been deprived of it by application of Article 4 (2) of Annex VII to the Staff Regulations, and that it had followed the same policy in calculating the severance grant on the basis of the concept of basic salary laid down in the *Jacquemart* judgment.

By contrast with the applicant's claims, and in the light of the latter judgment, it is a question not of applying retroactively a provision giving effect to the Staff Regulations, but of applying it immediately and correctly. Where, as a result of interpretation by the Court, provisions of the Staff Regulations acquire a different meaning from that which the institution previously attributed to them, they are, by virtue of the principle that the judicial interpretation of provisions is enforceable against the institutions, appicable in their new meaning to pre-existing matters which are still pending.

Likewise, according to the Commission, there has not, contrary to the applicant's submissions, been any breach of the "law as agreed upon between parties", because the payments provided for in Article 11 of Annex VIII to the Staff Regulations have no contractual basis but are made on the basis of the applicable provisions as construed by the Court, whose interpretation may be relied upon against the institutions in the same way as the Staff Regulations themselves.

The Commission also contests the applicant's argument relating to "the spirit of the law", according to which at the time of the entry into force of the General Provisions giving effect to Article 11 (2) of Annex VIII to the Staff Regulations the basic salary referred to in Article 3 (3) consisted of the amounts shown in the table contained in Article 66 of the Staff Regulations. It observes that at the time when the above-mentioned provisions entered into force the method followed by the Council to adjust remuneration was different from that adopted on an experimental basis on 21 March 1972 and subsequently abandoned on 29 June 1976 in favour of a method similar to the initial method. Whilst at that time, as at present, adjustment of remuneration was effected by adjustment of the basic salaries shown in the table contained in Article 66 of

the Staff Regulations, during the experimental period from 1972 to 1976, remuneration was adjusted by the application of a weighting to the amounts shown in the table contained in that provision, namely the weighting applicable to the remuneration of officials employed at the provisional seats of the Communities, in this case 148.7, as from 1 July 1975. Although the method of adjusting the level of remuneration has thus varied over the years, the concept of the basic salary has itself remained unchanged.

The defendant then goes on to deal with the applicant's argument to the effect that the interpretation of the term "basic salary" given in the *Jacquemart* judgment is valid only for determination of the severance grant, as the Court is said to have made clear by observing that there was no objective consideration to justify giving to the term "basic salary" in Article 12 (c) of Annex VIII a meaning different from that which it has in Article 66 of the Staff Regulations. In response to that argument the defendant states that although the Court did not exclude outright any other interpretation justified by objective considerations, the fact remains that the interpretation adopted by the Court, after a detailed analysis of Articles 62 to 70 of the Staff Regulations, becomes something of a principle by reason of the fact that, in the absence of such considerations, it is that interpretation which should be adopted. That is a result of the fact that in the *Jacquemart* judgment the Court took the step of defining the basic salary as provided for in Article 66 of the Staff Regulations, subsequently examining whether or not there were any objective reasons which might have justified an interpretation which departed from the concept applicable in the case of the severance grant.

The objective considerations referred to by the Court were concerned, in the context of the judgment in question, with cases where the adoption of the same interpretation would detract from the principle of equality as between officials in comparable situations. In this regard, the defendant contends that the definition of basic salary given in the *Jacquemart* judgment leads to greater equality of treatment as between officials by contrast with the method advocated by the applicant, which would lead to serious discrimination depending on whether the persons concerned had been established before or after 1 January 1977. As from that date, the defendant observes, basic salaries, as shown in the table contained in Article 66, were increased as a result of the new salary scales incorporating the weighting for Belgium and Luxembourg — previously 157.8 — the effect of which was to bring it to 100 % (Council Regulation No 3177/76 of 21 December 1976).

The method advocated by the applicant would lead to undoubted inequality at the expense of officials established after 1 January 1977, who would obtain fewer years of pensionable service than those established before that date. Conversely, the Commission's method of calculation adopting the definition of the term "basic salary" given in the *Jacquemart* judgment would make it possible to cancel out the impact of the difference between the methods used at various times to determine the remuneration levels and would enable equality of treatment as between officials to be restored.

Finally, the Commission points out that since 1 January 1977, on which date the Council changed its policy of raising the level of remuneration by means of weightings, there has been an annual

readjustment of the salary scales. Since then, for the application both of Article 72 (3) (special reimbursement of the portion of actual expenditure in excess of half the average basic monthly salary) and of Article 73 (1) of the Staff Regulations (contribution of 0.1 % of an official's basic salary towards insurance against non-occupational risks) the basic salary must necessarily be understood to be the amount shown in the table contained in Article 66 of the Staff Regulations in which the weighting for Belgium and Luxembourg was incorporated with effect from 1 January 1977. According to the defendant, the fact that before the *Jacquemart* judgment the term "basic salary" was, during the interval covered by the experimental method adopted by the Council on 21 March 1972, interpreted by the defendant as referring to the amounts shown in the table contained in Article 66 of the Staff Regulations without the application of any weighting, is clearly unconnected with these proceedings, which are concerned with the immediate application of the concept of basic salary to legal situations in respect of which no decision had been given at an earlier stage, in accordance with the interpretation given in the *Jacquemart* judgment.

At the sitting on 18 June 1981 oral argument was presented by V. Biel, of the Luxembourg Bar, on behalf of the applicant, and by R. Andersen, of the Brussels Bar, on behalf of the Commission of the European Communities.

The Advocate General delivered his opinion at the sitting on 1 October 1981.

Decision

1 By an application lodged at the Court Registry on 30 September 1980, P. Benassi, an official of the Commission of the European Communities, brought an action for annulment of the Commission's decision of 2 September 1980 rejecting his complaint under Article 90 of the Staff Regulations of Officials in which he requested that the number of years of pensionable service with which he was to be credited on the basis of the amount of the actuarial equivalent or the sums repaid referred to in Article 11 (2) of Annex VIII to the Staff Regulations should, pursuant to the General Provisions giving effect to the said Article 11 (2) and in particular pursuant to Article 3 of those General Provisions, be calculated with reference to his basic annual salary, without the application of the weighting — 148.7 in this case — fixed by Regulation No 2998/75 of the Council of 17 November 1975.

2 The applicant maintains, in that regard, that the basic annual salary is determined by adding together the twelve monthly basic salary payments determined by reference to Article 66 of the Staff Regulations, which defines

the basic salaries for each grade and step, without applying any weighting. He considers that the application of a weighting to that amount is due to a confusion between remuneration in the strict sense and basic salary.

3 The applicant further states that reference to the basic annual salary adjusted by a weighting would have unacceptable consequences in the form of absurd and discriminatory disparities affecting the persons concerned according to their place of employment.

4 The Commission draws a distinction, on the basis of the judgment of the Court of 13 July 1978 in Case 114/77 *Jacquemart* v *Commission* ([1978] ECR 1697), between geographical weightings as provided for by the first and second paragraphs of Article 64 and weightings fixed by the Council pursuant to Article 65 (2) of the Staff Regulations to determine the level of the various elements comprising the remuneration of officials employed at the various seats of the Communities. The Commission contends that although the geographical weightings do not form part of the basic salary, the same does not apply in the case of the second type of weighting.

5 As the Court stated in the judgment cited above, the function of the weighting mentioned in Article 64 of the Staff Regulations is to ensure that the remuneration of all officials has the same purchasing power, whatever their place of employment. On the other hand, the weighting mentioned in Article 65 is a means available to the Council for adjusting the remuneration of all officials and servants of the Communities.

The second kind of weighting, as part of the machinery for adjusting the remuneration of officials employed at the seats of the Communities, is intended by virtue of its very function to be merged with the basic salary, having regard to the fact that it was adopted in order to determine remuneration by its application to the amounts shown in the table contained in Article 66 of the Staff Regulations of Officials.

7 That table is the sole basis for determining the basic salary, upon establishment, only in cases where the amounts shown therein have not in fact had the weighting referred to in Article 65 of the Staff Regulations applied to them. The basic salary is arrived at either by the updating of those

amounts by application of the weighting, as was the case from 1972 to 1976, or by an adjustment of the table contained in Article 66 by incorporation of the weighting, as is the case for the period after 1 January 1977.

8 It should be emphasized that this definition of the term "basic salary" avoids the illogical consequence of recognizing different seniority for the purposes of the Community pension scheme depending on whether the variations in the cost of living occurring after the adoption of the Staff Regulations were incorporated in the figures shown in the table contained in Article 66 of the Staff Regulations.

9 Moreover, the applicant's argument to the effect that application of the weightings has led to discrimination or adverse consequences affecting him takes no account of the clear and precise nature of the distinction drawn in the Staff Regulations between geographical weightings and those provided for in Article 65.

10 It must be made clear that the basic salary, as provided for in Article 66 of the Staff Regulations, comprises the amounts shown in the table contained in that provision, adjusted where appropriate by the weighting adopted for the seats of the Communities by the Council in the light of the annual review provided for by Article 65, and the meaning of the expression "basic salary" cannot vary from one provision to another in the absence of objective considerations justifying such a difference.

11 There does not appear to be any justification for attributing a meaning different from that laid down by the Court in the case cited above to the expression "basic salary attaching to the grade on establishment" for the purpose of calculating the number of years of pensionable service with which an official is to be credited on the basis of the amount of the actuarial equivalent or the sums repaid referred to in Article 11 (2) of Annex VIII to the Staff Regulations.

12 It is therefore appropriate to conclude that the Commission properly interpreted the term "basic salary", for the purpose of calculating the number of years of pensionable service to be credited to the applicant on the basis of the amount of the actuarial equivalent or sums repaid, as including the weighting provided for in Article 65 of the Staff Regulations.

13 It follows that the application must be dismissed as unfounded.

Costs

14 Under Article 69 (2) of the Rules of Procedure the unsuccessful party is to be ordered to pay the costs.

15 The applicant has failed in his submissions.

16 However, under Article 70 of the Rules of Procedure the costs incurred by the institutions in actions by servants of the Communities are to be borne by those institutions.

On those grounds,

THE COURT (Second Chamber)

hereby:

1. **Dismisses the application;**

2. **Orders the parties to bear their own costs.**

Due Pescatore Chloros

Delivered in open court in Luxembourg on 19 November 1981.

For the Registrar

H. A. Rühl
Principal Administrator

O. Due
President of the Second Chamber