JUDGMENT OF THE COURT
7 March 1995 *

In Case C-130/91 REV,

ISAE/VP (Instituto Social de Apoio ao Emprego e à Valorização Profissional), a company incorporated under Portuguese law and established in Lisbon,

and

Interdata (Centro de Processamento de Dados Limidada), a company incorporated under Portuguese law and established in Lisbon,

represented by Agostinho Amado Rodrigues, of the Lisbon Bar, of 50 Plaça do Campo Pequeno, Esq. 2, 1000 Lisbon,

applicants,

v

Commission of the European Communities, represented by Ana Maria Alves Vieira, of its Legal Service, acting as Agent, with an address for service in Luxembourg at the office of Georgios Kremlis, of the Legal Service, Wagner Centre, Kirchberg,

defendant,

* Language of the case: Portuguese.

APPLICATION for revision of the order of the Court of Justice of 14 January 1992 in Case C-130/91 *ISAE/VP and Interdata* v *Commission* [1992] ECR I-69,

THE COURT,

composed of: G. C. Rodríguez Iglesias, President, F. A. Schockweiler, P. J. G. Kapteyn, C. Gulmann and P. Jann (Presidents of Chambers), G. F. Mancini, C. N. Kakouris, J. C. Moitinho de Almeida, J. L. Murray (Rapporteur), D. A. O. Edward, J.-P. Puissochet, G. Hirsch and H. Ragnemalm, Judges,

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

after hearing the Advocate General,

gives the following

Judgment

1 By application lodged at the Court Registry on 11 August 1994, the companies ISAE/VP (Instituto Social de Apoio ao Emprego e à Valorização Profissional) and Interdata (Centro de Processamento de Dados Limidada) applied, pursuant to Article 41 of the Statute of the Court of Justice of the EEC ('the EEC Statute'), for the revision of the order of the Court of 14 January 1992 in Case C-130/91 *ISAE/VP and Interdata* v *Commission* [1992] ECR I-69.

2 In that order, the Court dismissed as inadmissible the application for the annulment of a Commission decision alleged to have been adopted on a date unknown and to have refused payment of contributions from the European Social Fund

which had previously been approved and which concerned applications for assistance Nos 87.0730/P1, 88.0705/P1 and 88.0706/P1.

3 In support of their application, the applicants refer to six documents, four of which were annexed to the application for revision and two of which were sent later and received at the Court Registry on 3 October 1994. According to the applicants, the Commission has indefinitely postponed payment of the sums at issue, which it acknowledges it owes. They therefore ask the Court to order the reopening of the procedure in the main proceedings and to request the Commission to reply to the application for revision or to pay the sums in question of its own accord.

4 The Commission considers that the application for revision is inadmissible since the facts relied on by the applicants were not facts unknown to the Court and to the party claiming the revision within the meaning of Article 41 of the EEC Statute.

5 In order to assess the admissibility of the present application, it should be recalled that, according to the first paragraph of Article 41 of the EEC Statute, 'an application for revision of a judgment may be made to the Court only on discovery of a fact which is of such a nature as to be a decisive factor, and which, when the judgment was given, was unknown to the Court and to the party claiming the revision.'

6 It follows that revision is not an appeal procedure but an exceptional review procedure that allows the authority of *res judicata* attaching to a final judgment to be called in question on the basis of the findings of fact relied upon by the court.

Revision presupposes the discovery of elements of a factual nature which existed prior to the judgment and which were unknown at that time to the court which delivered it as well as to the party applying for revision and which, had the court been able to take them into consideration, could have led it to a different determination of the proceedings (see, most recently, the order of the Court in Case C-185/90 P-REV *Gill* v *Commission* [1992] ECR I-993, point 12).

7 The documents lodged with the Court by the applicants do not contain any new element of a factual nature which existed prior to the judgment, within the meaning of the abovementioned decision.

8 It follows that the aforesaid order of the Court in Case C-130/91 cannot be the subject of an application for revision based on the alleged existence of a new fact.

9 Consequently, the application for revision of the aforesaid order must, pursuant to Article 100(1) of the Rules of Procedure, be dismissed as inadmissible.

Costs

Under Article 69(2) of the Rules of Procedure the unsuccessful party is to be ordered to pay the costs. Since the applicants have been unsuccessful, they must be ordered to pay the costs.

On those grounds,

THE COURT

hereby:

1. Dismisses the application for revision as inadmissible;

2. Orders the applicants to pay the costs.

Rodríguez Iglesias Schockweiler Kapteyn

Gulmann Jann

Mancini Kakouris Moitinho de Almeida

Murray Edward

Puissochet Hirsch Ragnemalm

Delivered in closed session in Luxembourg on 7 March 1995.

R. Grass
Registrar

G. C. Rodríguez Iglesias
President