ORDER OF THE COURT OF FIRST INSTANCE (Fifth Chamber)
12 March 1992 *

In Case T-84/91,

Mireille Meskens, an official of the European Parliament, residing in Brussels, represented by Jean-Noël Louis, of the Brussels Bar, with an address for service in Luxembourg at the Chambers of Fiduciaire Myson SARL, 1 Rue Glesener,

applicant,

v

European Parliament, represented by Jorge Campinos, Jurisconsult, and Manfred Peter, Head of Division, acting as Agents, with an address for service in Luxembourg at the General Secretariat of the European Parliament, Kirchberg,

defendant,

APPLICATION for compensation for material and non-material damage alleged by the applicant,

THE COURT OF FIRST INSTANCE (Fifth Chamber),

composed of: K. Lenaerts, President of the Chamber, D. Barrington and H. Kirschner, Judges,

Registrar: H. Jung,

makes the following

* Language of the case: French.

Order

1 By application lodged at the Court Registry on 5 February 1992 the Union Syndicale-Bruxelles, whose registered office is in Brussels, represented by Gérard Collin, of the Brussels Bar, with an address of service in Luxembourg at the Chambers of Fiduciaire Myson SARL, 1 Rue Glesener, applied to intervene in Case T-84/91 in support of the form of order sought by the applicant.

2 The application to intervene was submitted pursuant to Article 115 of the Rules of Procedure of the Court of First Instance and is made pursuant to the second paragraph of Article 37 of the Statute of the Court of Justice at the EEC, applicable to the procedure before the Court of First Instance by virtue of the first paragraph of Article 46 of the said Statute.

3 In its application to intervene the Union Syndicale alleges that its members, who are officials of the European Communities, have given it general authority to defend by all legal means their professional interests, both economic and non-material, where those interests are common. It considers that the pleas in law put forward by the applicant in support of her action raise questions of principle relating to the organization of the European civil service in so far as the action seeks a declaration that an institution has failed to fulfil its obligations by not adopting, of its own motion, in conformity with the provisions of Article 176 of the EEC Treaty, the measures required to comply with a judgment.

4 The application to intervene was served on the parties in accordance with Article 116(1) of the Rules of Procedure of the Court of First Instance.

5 By letter lodged at the Court Registry on 18 February 1992, the applicant stated she had no observation to make against the application to intervene.

6 In its observations lodged on 27 February 1992, the defendant expressed reservations with regard to the intervention. It stated that it was not, in principle, opposed to such intervention but that, in the present case, the intervener did not establish an interest in taking part in the proceedings. The defendant takes the view that the present case does not raise any questions of principle relating to the organization of the European civil service. In its view the question in the present case is not compliance with a judgment but rather an attempt on the applicant's part to obtain authorization to take part in Competition B/164, that is to say to achieve the aim already pursued in her first action (Case T-56/89), although in its judgment in that case the Court did not uphold an identical claim by the applicant.

7 Pursuant to third paragraph of Article 116(1) of the Rules of Procedure of the Court of First Instance, the President of the Fifth Chamber referred the application to intervene to the Chamber.

8 Under the second paragraph of Article 37 of the Statute of the Court of Justice the right to intervene in cases before the Court of First Instance is open to any person establishing an interest in the result of the case.

9 In that respect it should be borne in mind that trade-union organizations are widely allowed to intervene in staff cases where the judgment is likely to affect a collective interest (see, for example, the judgment of the Court of Justice in Case 72/74 *Union Syndicale* v *Council* [1975] ECR 401, at 410; orders of the Court of Justice in Case 3/83 *Abrias and Others* v *Commission*; in Case 233/87 *Bonino* v *Commission*; in Case 194/87 *European Public Service Union* v *Court of Auditors* and in Case 148/88 *Albani and Others* v *Commission*; orders of the Court of First Instance in Case T-48/89 *Beltrante and others* v *Council*; in Case T-121/89 *NMS* v *Commission* and in Case T-42/90 *Bertelli* v *Commission*).

10 The present action raises the question whether the European Parliament adopted vis-à-vis the applicant the measures necessary to comply with the judgment of the Court of First Instance in Case T-56/89 *Bataille and Others* v *European Parliament* [1990] ECR II-597) annulling a decision of the appointing authority rejecting the applicant's application and that of several other candidates to take part in a competition. Contrary to what the defendant maintains, the question in the present proceedings was not settled by the said judgment.

11 It is true that the statement of the relief sought by the applicants in Case T-56/89 was framed in the following terms:

'— declare their action admissible and well-founded;

— consequently, annul the decision of the Secretary-General of the Parliament rejecting the applicants' applications for Internal Competition B/164 and authorize them to take part in it and, as an incidental measure, annul the decisions of the Secretary-General dismissing the complaints lodged by the applicants'.

12 The applicants' claim to be authorized to take part in the competition and their claim for the annulment of the decisions rejecting their complaints, both of which accompanied the principal claim for the annulment of the rejection of their candidatures, were regarded by the Court as being so closely linked to the principal claim for annulment that they merged with it and had no independent significance in relation to it. The applicants' claim to be authorized to take part in Competition B/164 represented only the expression of their opinion regarding the consequences of the annulment of the rejection of their candidatures. In those circumstances there was no need for the Court to rule on that claim.

13 It should be added that such a claim, assuming that it was of an independent nature in relation to the claim for annulment, would have been inadmissible in any event. The Community judicature cannot issue directions to a Community institution without trespassing on the prerogatives of the administration. In those

circumstances, the fact that the Court did not expressly reject as inadmissible the part of the claim relating to the applicants' participation in the competition in no way implies that the Court ruled on the scope of the Parliament's obligation under Article 176 of the Treaty.

14 It must therefore be held that the question at issue between the parties is of general import. The question as to what are the duties of a Community institution following the annulment of a decision rejecting the application of some of its staff to take part in a competition comes within the sphere of collective interests the defence of which is one of the objects of the Union Syndicale, as stated in its statutes. In those circumstances, the Union Syndicale's application to intervene must be granted.

On those grounds,

THE COURT OF FIRST INSTANCE (Fifth Chamber)

hereby orders:

1. The Union Syndicale-Bruxelles is granted leave to intervene in Case T-84/91 in support of the form of order sought by the applicant;

2. A period shall be prescribed within which the intervener must state the pleas relied on in support of the form of order which it seeks;

3. The Registrar shall serve on the intervener a copy of every document served on the parties;

4. The costs are reserved.

Luxembourg, 12 March 1992.

H. Jung
Registrar

K. Lenaerts
President