In Case 9/81 — Interpretation

COURT OF AUDITORS OF THE EUROPEAN COMMUNITIES

v

CALVIN E. WILLIAMS

APPLICATION for the interpretation of the judgment of the Court of 6 October 1982 in Case 9/81

1 By application of 24 November 1982 the Court of Auditors of the European Communities, the defendant in Case 9/81, requested, pursuant to Article 40 of the Protocol on the Statute of the Court of Justice of the EEC and Article 102 of the Rules of Procedure, an interpretation of the judgment given on 6 October 1982 in the said case.

2 In that judgment the Court ordered "the Court of Auditors to correct the step assigned to the applicant with effect from 12 May 1980 and to observe the criteria laid down in its decision of February 1980". The Court of Auditors had laid down in the said decision the criteria for the appointment and classification of staff and officials recruited from outside the institutions of the Community so that they were classified more favourably than the applicant who had been transferred from the Audit Board.

3 The application for interpretation seeks on the one hand essentially to ascertain whether Article 4 of the decision of the Court of Auditors of February 1980 is applicable to Mr Williams, the applicant in Case 9/81, and, if so, what is the method to be applied in determining his classification. Further it seeks an interpretation of the judgment of 6 October 1982 "in conjunction with Case 129/82" at present pending before the Court.

4 Pursuant to Article 102 (2) of the Rules of Procedure the application for interpretation was notified to Mr Williams who, in his written observations, contends that the application is inadmissible.

5 By application of 7 January 1983 Charles Lux, the applicant in the aforesaid Case 129/82, requested to be allowed to intervene in the present case for an interpretation in support of the conclusions of Mr Williams. He claims that the conclusions of Mr Williams should be upheld in so far as they seek a declaration that the application for an interpretation is inadmissible.

6 The application to intervene was notified to the parties in the main action pursuant to Article 93 (3) of the Rules of Procedure. The Court of Auditors contended that the application to intervene was inadmissible. Mr Williams made no observations on the application.

7 The intervention must be allowed for Mr Lux has established an interest in the result of the case within the meaning of Article 37 of the Protocol on the Statute of the Court of Justice. Although the proceedings for interpretation are ancillary to the proceedings which have led to the judgment the interpretation of which is requested so that as a general rule only the parties to the latter proceedings may be parties to the proceedings relating to interpretation, the present case requires a different appraisal. Since the interpretation has been sought specifically in relation to Case 129/82 concerning a dispute between Mr Lux and the applicant in proceedings for interpretation, protection of the rights of the defence requires that Mr Lux should be allowed to intervene.

8 In view of the conclusions of the parties it is appropriate to rule on the admissibility of the application for interpretation by way of an order without opening the oral procedure and without there being any need for additional observations from the intervener in support of his conclusions.

9 As regards the first part of the present application it should be remembered that the judgment of the Court of 6 October 1982 ordered the Court of Auditors to correct the step assigned to the applicant in accordance with the decision of February 1980. In those circumstances the first part of the present application relating to the application of Article 4 of the said decision of the Court of Auditors does not concern the interpretation of the contested judgment but its application, which is a matter for the Court of Auditors.

10 The first part of the application for interpretation must therefore be rejected as inadmissible.

11 As regards the second part of the application, which is related to Case 129/82, it is apparent from the explanations contained in the application itself that the second part thereof has no connection with the administrative position of Mr Williams but solely concerns other officials and in particular the applicant in Case 129/82.

12 As the Court held in its judgment of 7 April 1965 in Case 70/63 *High Authority* v *Collotti and Court of Justice* [1965] ECR 275, a person making an application for interpretation of a judgment must base his argument, not on controversies relating to the possible effect of the judgment in question on cases other than that on which a ruling has been given, but on the obscurity or ambiguity affecting the meaning or scope of the judgment itself in settling the particular case before the Court.

13 Since the second part of the application for interpretation does not seek clarification of the meaning or scope of the judgment of 6 October 1982 but seeks to obtain from the Court an opinion on a legal question raised in another case it must also be rejected as inadmissible.

14 Under Article 69 (2) of the Rules of Procedure, the unsuccessful party is to be ordered to pay the costs. As the Court of Auditors has failed in its submissions, it must be ordered to pay the costs.

On those grounds,

THE COURT (Third Chamber)

composed of: U. Everling, President of Chamber, Y. Galmot and C. Kakouris, Judges,

Advocate General: G. Reischl
Registrar: P. Heim

hereby:

1. **Allows Charles Lux to intervene in support of the conclusions of the defendant in the proceedings for interpretation;**

2. **Dismisses the application for interpretation as inadmissible;**

3. **Orders the Court of Auditors to pay the costs including those of the intervener.**

Luxembourg, 29 September 1983.

J. A. Pompe
Deputy Registrar

U. Everling
President of the Third Chamber