ORDER OF THE FIRST CHAMBER OF THE COURT
17 SEPTEMBER 1981 [1]

Dominique Noëlle Oberthür
v Commission of the European Communities

Case 24/79 — Costs

In Case 24/79 — Costs

DOMINIQUE NOËLLE OBERTHÜR

v

COMMISSION OF THE EUROPEAN COMMUNITIES

Facts and Issues

In a judgment of 5 June 1980, the Court ordered the Commission of the European Communities to pay to Miss Dominique Noëlle Oberthür the sum of BFR 20 000 by way of damages and to pay the costs of the case.

By an application received at the Court Registry on 20 July 1981, Counsel for Miss Oberthür requested the Court to make an order under Articles 73 and 74 of the Rules of Procedure in relation to a sum of BFR 2 000 representing the travel and subsistence expenses incurred by his client in connection with her journey to Luxembourg on the day of the hearing. In his opinion, it is the responsibility of an applicant's Counsel to assess whether his client's presence at the hearing is necessary for the conduct of the case.

In a document received at the Court Registry on 26 August 1981, the Commission submitted that the application should be dismissed, on the ground that the presence of Miss Oberthür at the hearing on 28 February 1980 was not necessary for the purpose of the proceedings within the meaning of Article 73 (b) of the Rules of Procedure.

The Advocate General delivered his opinion in the Deliberation Room on 16 September 1981.

1 — Language of the Case: French.

Decision

1 Article 73 of the Rules of Procedure provides that, in addition to sums payable to witnesses and experts and the costs referred to in Article 72, "expenses necessarily incurred by the parties for the purpose of the proceedings, in particular the travel and subsistence expenses and the remuneration of agents, advisers or lawyers", shall be regarded as recoverable costs.

2 It follows from that provision that in general the travel and subsistence expenses which are recoverable are essentially those incurred by agents, advisers or lawyers. However, the travel and subsistence expenses of the applicant himself are also recoverable if his presence at the hearing is necessary for the purpose of the proceedings.

3 This may be the case if the presence of the applicant in person is required because the Court has requested it, or because the hearing is concerned with the taking of evidence relating to events experienced by the applicant, or because the course of such events is extremely complicated and is the main point at issue before the Court.

4 None of these possibilities applied in this case. The facts necessary for deciding the issue were largely contained in the personal file of the official concerned and in the documents relating to the procedure for promotion to Grade B 2 for the year 1978.

5 In these circumstances, the application must be dismissed.

On those grounds,

THE COURT (First Chamber)

hereby orders as follows:

The application concerning the taking into account as recoverable costs of the travel and subsistence expenses in connection with the applicant's journey to Luxembourg so as to be present at the hearing in person is dismissed.

Luxembourg, 17 September 1981.

J. A. Pompe
Deputy Registrar

T. Koopmans
President of the First Chamber