

JUDGMENT OF THE COURT OF FIRST INSTANCE

of 9 April 2003

in Case T-217/01: Forum des migrants de l'Union européenne v Commission of the European Communities ⁽¹⁾

(Community financial support — Operating costs — Decision to terminate financial support — Principle of sound financial management — Interpretation of the conditions of support — Right to a fair hearing — Protection of legitimate expectations)

(2003/C 146/70)

(Language of the case: French)

In Case T-217/01, Forum des migrants de l'Union européenne, having its registered office in Brussels (Belgium), represented initially by E. Degrez and subsequently by N. Crama, lawyers, v Commission of the European Communities (Agents: A.-M. Rouchaud-Joët and L. Parpala): Application for annulment of the Commission's decision of 11 July 2001 to terminate the financial support granted to the applicant under Article A0-3040 of the Community budget, the Court of First Instance (Fourth Chamber), composed of: V. Tiili, President, P. Mengozzi and M. Vilaras, Judges; D. Christensen, Administrator, for the Registrar, has given a judgment on 9 April 2003, in which it:

1. Dismisses the application;
2. Orders the applicant to pay its own costs and those of the defendant.

⁽¹⁾ OJ C 317 of 10.11.2001.

Action brought on 24 March 2003 by Jose Maria Sison against the Council of the European Union

(Case T-110/03)

(2003/C 146/71)

(Language of the case: English)

An action against the Council of the European Union was brought before the Court of First Instance of the European Communities on 24 March 2003 by Jose Maria Sison, Utrecht, the Netherlands, represented by Mr J. Fermon, Mr A. Comte, Mr H. Schultz and Mr D. Gurses, lawyers.

The applicant claims that the Court should:

- annul, on the basis of art. 230 of EC Treaty, Council Decision of 21 January 2003 (41/c/01/02): Answer adopted by the Council on the 21st of January 2003 to the confirmatory application of M. Jan Fermon sent by fax on the 11 of December 2002 under Article 7 (2) of the Regulation (EC) No 1049/2001, notified to the applicant's counsel on January 23, 2003.
- require the respondent party to bear the costs of suit.

Pleas in law and main arguments

The applicant in the present case, who is also the applicant in Case T-47/03 Sison against Council and Commission ⁽¹⁾, pursues the annulment of the defendants decision not to allow him access to all the documents which formed the basis of the Council Decision 2002/848/EC ⁽²⁾, by which the applicant himself and the New People's Army (NPA) are included in the list pertinent to Article 2(3) of Regulation 2580/2001 ⁽³⁾, as well as access to any information regarding which Member States provided documents mentioned in the contested Decision. The applicant also asked to be informed about the rules and criteria applied by the Council regarding sensitive documents that shall be made public following Article 9, point 6, of Regulation 1049/2001 ⁽⁴⁾.

The Council's position was based on Article 4(a), first and third points, of the Regulation 1049/2001. According to the defendant, the disclosure of information with regard to combatting terrorism, which is in the possession of the Member States authorities, could give the persons, entities or groups who are the subject of this information, the opportunity to threaten the efforts of these authorities and thus undermine the protection of public interest as regards public security. With reference to the Member States that provided sensitive documents, the Council stated that the 'originator authority' is opposed to the disclosure of the requested information. About the rules concerning sensitive documents, the Council referred to the Council decision 2001/264/CE adopting the Council's security regulations.

In support of its application, the applicant submits:

- Failure of motivation and violation of the principle of sound administration.
- Violation of the principles enshrined in Article 6 ECHR and especially of the right to be informed promptly, in a language which the applicant understands and in detail, of the nature and cause of the accusation, as well as of the principle of proportionality.

With regard to this last point, the applicant states that the right to be informed of the cause of the accusation against him cannot be neutralised by the protection of public interest as regards public security and international relations. Considering all the damages suffered by the applicant, the balance of interest is in his favour.

(¹) Not published in the OJ yet.

(²) Council Decision of 28 October 2002 implementing Article 2(3) of Regulation (EC) No 2580/2001 on specific restrictive measures directed against certain persons and entities with a view to combating terrorism and repealing Decision 2002/460/EC (OJ L 295 of 30.10.2001, p. 12).

(³) Council Regulation of 27 December 2001 on specific restrictive measures directed against certain persons and entities with a view to combating terrorism (OJ L 344 of 28.12.2001, p. 70).

(⁴) Regulation of the European Parliament and the Council of 30 May 2001 regarding public access to European Parliament, Council and Commission documents (OJ L 145 of 31.5.2001, p. 43).

Action brought on 4 April 2003 by New Look Limited against the Office for Harmonisation in the Internal Market (Trade Marks and Designs) (OHIM)

(Case T-117/03)

(2003/C 146/72)

(Language of the case: Spanish)

An action against the Office for Harmonisation in the Internal Market (Trade Marks and Designs) (OHIM) was brought before the Court of First Instance of the European Communities on 4 April 2003 by New Look Limited, with its official address in Weymouth (Dorset), United Kingdom, represented by R. Ballester and G. Marín, lawyers, of the firm Marks & Clerk.

The applicant claims that the Court should:

- Annul the decision of 27 January 2003 of the Second Board of Appeal of OHIM in Case No R95/2002-1, and
- Order the applicant, as well as any intervener, to pay the costs arising from the proceedings and from Case No 95/2001-1 before the First Board of Appeal of OHIM.

Pleas in law and main arguments

Applicant for Community trade mark:

The applicant.

Community trade mark sought:

Figurative mark 'NLSPORT' — Application No 816 512 for goods within Classes 3, 14, 18 and 25.

Proprietor of mark or sign cited in the opposition proceedings:

Naulover S.A.

Mark or sign cited in opposition:

Community trade mark No 13417, consisting in an N superposed on an L, both in English characters.

Decision of the Opposition Division:

Refusal of the opposition.

Decision of the Board of Appeal:

Annulment of the decision of the Opposition Division and acceptance of the opposition.

Pleas in law:

Incorrect application of Article 8(1)(b) of Regulation (EC) No 40/494 (likelihood of confusion).

Action brought on 4 April 2003 by New Look Limited against the Office for Harmonisation in the Internal Market (Trade Marks and Designs) (OHIM)

(Case T-118/03)

(2003/C 146/73)

(Language of the case: Spanish)

An action against the Office for Harmonisation in the Internal Market (Trade Marks and Designs) (OHIM) was brought before the Court of First Instance of the European Communities on 4 April 2003 by New Look Limited, with its official address in Weymouth (Dorset), United Kingdom, represented by R. Ballester and G. Marín, lawyers, of the firm Marks & Clerk.