

ORDER OF THE COURT OF FIRST INSTANCE**of 14 February 2005****in Case T-406/03 Nicolas Ravaille v Committee of the Regions of the European Union ⁽¹⁾****(Officials — Prior administrative procedure — Inadmissibility)**

(2005/C 143/66)

(Language of the case: French)

In Case T-406/03: Nicolas Ravaille, a former member of the temporary staff of the Committee of the Regions of the European Union, residing in Amiens (France), represented by J.-P. Brodsky, against Committee of the Regions of the European Union (Agent: P. Cervilla, assisted by B. Wägenbauer, lawyer) — application, primarily, against the refusal of the authority empowered to conclude contracts of employment to reinstate the applicant in his post and restore his rights under the Staff Regulations as a member of the temporary staff of the Committee of the Regions of the European Union or, in the alternative, for payment of compensation — the Court of First Instance (Fifth Chamber), composed of M. Vilaras, President, F. Dehousse and D. Šváby, Judges; H. Jung, Registrar, made an order on 14 February 2005, the operative part of which is as follows:

1. *The application is dismissed as inadmissible.*
2. *The parties shall bear their own costs.*

⁽¹⁾ OJ C 47 of 21.2.2004.

ORDER OF THE COURT OF FIRST INSTANCE**of 12 January 2005****in Case T-268/04 Spa Monopole, Compagnie fermière de Spa v the Office for Harmonisation in the Internal Market (Trade Marks and Designs) (OHIM) ⁽¹⁾****(Community trade mark — Opposition — Withdrawal of opposition — No need to adjudicate)**

(2005/C 143/67)

(Language of the case: French)

In Case T-268/04: Spa Monopole, Compagnie fermière de Spa, established in Spa (Belgium), represented by L. de Brouwer, E.

Cornu, E. De Gryse and D. Moreau, lawyers, against the Office for Harmonisation in the Internal Market (Trade Marks and Designs) (OHIM) (Agent: O. Montalto), the other party to the proceedings before the Board of Appeal of OHIM having been Cottee Dairy Products Pty Limited, established in New South Wales (Australia) — action against the decision of the First Board of Appeal of OHIM of 19 April 2004 (Case R 148/2002-1) — the Court of First Instance (Second Chamber), composed of J. Pirrung, President, N. J. Forwood and S. Papa-savvas, Judges; H. Jung, Registrar, made an order on 12 January 2005, the operative part of which is as follows:

1. *There is no need to adjudicate on the application.*
2. *The parties shall each bear their own costs.*

⁽¹⁾ OJ C 217 of 28.8.2004.

Action brought on 21 January 2005 by Elisabeth Agne-Dapper against the Commission of the European Communities**(Case T-35/05)**

(2005/C 143/68)

(Language of the case: French)

An action against the Commission of the European Communities was brought before the Court of First Instance of the European Communities on 21 January 2005 by Elisabeth Agne-Dapper, Schoorl (Netherlands), and 172 others, represented by Georges Vandersanden, Laure Levi and Aurore Finchelstein, lawyers.

The applicants claim that the Court should:

1. declare the application, including the plea of illegality contained in it, admissible and well-founded;
2. accordingly, annul the applicants' pension statements for May 2004, which will entail the application of the weighting set according to the capital of their country of residence or, at the very least, of a weighting which correctly reflects the differences in the cost of living in the places where the applicants are deemed to incur expenditure and thus observes the principle of equivalence;
3. order the Commission to pay the costs.

Pleas in law and main arguments

The applicants in this case are all officials who retired before 1 May 2004. They contest the transitional scheme set up pending the abolition of weightings by Council Regulation (EC, Euratom) No 723/2004 of 22 March 2004 amending the Staff Regulations of officials of the European Communities and the Conditions of Employment of other servants of the European Communities⁽¹⁾ in so far as that scheme is based on a new calculation of the 'pension' weightings which are no longer calculated according to the cost of living in the capital, but according to the average cost of living in the Member State where the recipient of the pension provides evidence of having established his main residence.

In support of their claims the applicants first submit that the regulation cited is based on erroneous grounds in so far as neither the further integration of the Community nor the freedom of movement and residence, nor the difficulty of verifying the actual place of residence of pensioners can serve as a basis for the transitional scheme at issue.

The applicants also submit that the principles of equality, legal certainty, retroactivity of acquired rights and the protection of legitimate expectations have been infringed in this case.

⁽¹⁾ OJ L 124, 27.04.2004, p. 1.

Action brought on 17 February 2005 by Hinrich Bavendam and others against the Commission of the European Communities

(Case T-80/05)

(2005/C 143/69)

(Language of the case: German)

An action against the Commission of the European Communities was brought before the Court of First Instance of the European Communities on 17 February 2005 by Hinrich Bavendam, Bremen (Germany), Günther Früchtnicht, Bremen (Germany), Hinrich Geerken, Bremen (Germany), Hans-Jürgen Weyhausen-Brinkmann, Bremen (Germany), Curt-Hildebrand v. Einsiedel, Leipzig (Germany), Christina Gräfin von Schall-Riau-

cour, Ahlen-Vorhelm (Germany), Franz-Albrecht Metternich-Sandor, Prinz von Ratibor and Corvey, Höxter (Germany), Christoph Prinz zu Schleswig-Holstein, Thumby (Germany) and the town of Schloß Holte-Stukenbrock (Germany), represented by T. Giesen, lawyer.

The applicants claim that the Court should:

— annul the Commission's Decision of 7 December 2004 adopting, pursuant to Council Directive 92/43/EEC⁽¹⁾, the list of sites of Community importance for:

1. the Continental biogeographical region
2. the Atlantic biogeographical region

(notified under documents numbers C(2004) 4031 and C(2004) 4032) insofar as it concerns the property or territorial sovereignty of the applicants;

— order the defendant to pay the costs of the proceedings.

Pleas in law and main arguments

The applicants are either proprietors of entire sites or of large parts of sites declared by the contested decision to be sites of Community importance, which, the applicants submit, restricts their property rights.

The applicants submit that the selection criteria used for adding to the list of sites of Community importance were not met since the habitat types and species decisive to the selection are either not to be found at all or are not sufficiently representative.

The applicants contend further that:

- essential procedural requirements under Article 6(2), (3) and (4) or under Article 4 of Directive 92/43/EEC were infringed,
- the Treaty was infringed as the selection decision which formed the basis of the listing at national level was already erroneous,
- the Commission abused its discretion in adding all of the sites put forward by the Federal Republic of Germany to the list without exception.

⁽¹⁾ Council Directive 92/43/EEC of 21 May 1992 on the conservation of natural habitats and of wild fauna and flora (OJ 1992 L 206, p. 7).