

SEVENTY-THIRD SESSION

***In re* BOLAND (No. 6), DE GROOTE (No. 3) and LEFEBVRE (No. 3)**

(Application for execution)

Judgment 1201

THE ADMINISTRATIVE TRIBUNAL,

Considering the applications filed by Mr. Pierre Boland, Mr. Pierre De Groote and Mr. Pierre Lefebvre on 11 March 1991 for execution of Judgment 1012, the reply of 20 June of the European Organisation for the Safety of Air Navigation (Eurocontrol Agency), the complainants' rejoinder of 4 September and the Agency's surrejoinder of 21 November 1991;

Considering Article II, paragraph 5, of the Statute of the Tribunal;

Considering that the applications raise the same issues and should therefore be joined to form the subject of a single ruling;

Having examined the written evidence;

CONSIDERATIONS:

1. This is another in the series of complaints from Eurocontrol officials about the effects of the decision by the Permanent Commission of the Organisation not to continue to align staff pay with that of the European Communities. It is about the execution of Judgment 1012 (in re Alvoet and others). At the end of July 1990 Eurocontrol paid to all staff members the sums appearing on the relevant pay slips prior to 12 November 1987 as "Eurocontrol reduction - 0.7%", together with interest at the rate of 10 per cent a year.

Before such payment, on 30 March and 22 November 1988, the Permanent Commission had approved retroactive increases in pay as from 1 July 1986 and 1 July 1987 that took account of differentials of 0.85 (i.e. 0.7 + 0.15) per cent and 1.53 (i.e. 0.7 + 0.83) per cent respectively between pay at Eurocontrol and pay in the European Communities.

2. The complainants submit that the pay slips they received on 31 July 1990 show a "Eurocontrol reduction" of 0.15 per cent for the period from 1 July 1986 to 30 June 1987 and of 0.83 per cent for the period from 1 July to 30 November 1987 and that that constitutes misapplication of the Tribunal's ruling in Judgment 1012. Their case is that any "reduction" applied before 12 November 1987 is unlawful and that by limiting reimbursement to 0.7 per cent the Organisation has given only partial effect to the judgment.

For its part, the Organisation maintains that it has executed the judgment fully and in good faith.

3. The issues that arise in this case have already been fully dealt with in Judgment 1123 (in re Purnelle No. 3). For the reasons set out in that judgment under 10 and 12 the present complaints must fail on the merits. With every upward adjustment and every widening of the differential the staff were paid arrears reflecting the new adjustments; and even though the adjustments were made retroactive the staff did not suffer.

4. Since the complaints fail on the merits there is no need to entertain the Organisation's objections to receivability.

DECISION:

For the above reasons,

The applications are dismissed.

In witness of this judgment Mr. Jacques Ducoux, President of the Tribunal, Tun Mohamed Suffian, Vice-President, and Miss Mella Carroll, Judge, sign below, as do I, Allan Gardner, Registrar.

Delivered in public in Geneva on 15 July 1992.

Jacques Ducoux
Mohamed Suffian
Mella Carroll
A.B. Gardner

Updated by PFR. Approved by CC. Last update: 7 July 2000.