

Boivin v. 34 member States of the Council of Europe (dec.) - 73250/01

Decision 9.9.2008 [Section V]

Article 1

Responsibility of states

Dispute falling entirely within internal legal system of an international organisation endowed with its own legal personality separate from that of its members: *inadmissible*

Article 35

Article 35-3

Ratione personae

Dispute falling entirely within internal legal system of an international organisation endowed with its own legal personality separate from that of its members: *inadmissible*

The applicant was appointed chief accountant of a body operating under the authority of the European Organisation for the Safety of Air Navigation (Eurocontrol), of which Belgium and France are member States. However, his appointment was cancelled several times. He was eventually dismissed and, after lodging a number of administrative complaints, he appealed to the International Labour Organisation's Administrative Tribunal (ILOAT), which has sole authority to settle disputes between Eurocontrol and its staff. The ILOAT upheld the decisions cancelling the appointment and partially allowed the applicant's claim for compensation.

Inadmissible as to the application against 32 States: Initially the application had been lodged against Belgium and France. Then the applicant had extended it to 32 other High Contracting Parties. However, the final decision in the case was the ILOAT judgment, of which the applicant had been notified almost four years before he lodged his application: *six-month rule*.

Inadmissible as to the application against France and Belgium: The application fell to be examined in the light of the principles laid down in cases where the Court had been called upon to determine whether the responsibility of States Parties to the Convention could be engaged under the Convention because of actions or omissions linked to their membership of an international organisation (see, for example, *Bosphorus Hava Yolları Turizm ve Ticaret Anonim Şirketi "Bosphorus Airways" – Ireland*, [GC], no. 45036/98, CEDH 2005-VI, Information Note no. 76). The applicant's complaints were directed essentially against the judgment delivered by an international tribunal outside the jurisdiction of the respondent States, in the context of a labour dispute that lay entirely within the internal legal system of an international organisation endowed with its own legal personality

separate from that of its member States. At no time had France or Belgium intervened directly or indirectly in the dispute, and no action or omission of those States or their authorities could be considered to engage their responsibility under the Convention. In that respect the instant case was to be distinguished from cases where the international responsibility of the respondent States had been in issue. Unlike in those cases, in all of which the State or States concerned had been involved directly or indirectly, in this case the applicant could not be said to have been under the jurisdiction of the respondent States for the purposes of Article 1 of the Convention. The alleged violations could therefore not be attributed to France and Belgium. As regards the possible responsibility of Eurocontrol, the organisation was not a party to the Convention and could therefore not be held responsible under the provisions thereof: *incompatible ratione personae*.

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