

2. Second plea in law, alleging the lack of competence of the Parliament to adopt the contested decision, since the interinstitutional transfer of an official does not constitute a new recruitment and, in consequence, the Parliament cannot use the applicant's transfer as a pretext to determine, for a second time, his right to the expatriation allowance.
3. Third plea in law, alleging infringement of the principle of legitimate expectations and of the earlier decision of the Court of Auditors determining the applicant's rights, since any administrative act adopted by an institution enjoys a presumption of legality and since, in the present case, the earlier decision of the Court of Auditors gave right to legitimate expectations on the part of the applicant that he would receive the expatriation allowance for as long as he continued to be posted to Luxembourg.

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**Action brought on 28 March 2018 — DK v EEAS**

**(Case T-217/18)**

(2018/C 211/34)

*Language of the case: French*

**Parties**

*Applicant:* DK (represented by: S. Orlandi and T. Martin, lawyers)

*Defendant:* European External Action Service

**Form of order sought**

— Declare and rule:

- That the decision of 23 May 2017 imposing a disciplinary penalty on the applicant, by which the net amount of his old-age pension is reduced by 20 %, namely a retention of EUR 1 015 per month, until 30 September 2025 under Article 9(2) of Annex IX to the Staff Regulations is annulled;
- In the alternative, that the EEAS is ordered to pay the applicant a sum set *ex aequo et bono* to make good the loss suffered;
- That, in any event, the EEAS is ordered to pay the costs.

**Pleas in law and main arguments**

In support of the action, the applicant relies on two pleas in law.

1. First plea in law, alleging manifest errors of assessment vitiating the contested decision, in that, firstly, the Appointing Authority took account of damage to the integrity of the institutions caused by the applicant which had already been remedied and, secondly, the duration of the disciplinary penalty imposed is arbitrary as it has been set by reference to the legal retirement age of the applicant.
  2. Second plea in law, alleging an infringement of the principle of proportionality vitiating the contested decision by reason of the unlawful failure to take account of the amount of time that has elapsed since the facts occurred, of the infringement of Article 25 of Annex IX to the Staff Regulations during the criminal proceedings and of the applicant's family situation.
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