

The applicant claims that the Court should:

- annul the decision of the Council refusing the applicant entitlement to the expatriation allowance and resulting rights, from her entry into service on 1 November 2003;
- order the Council to pay the costs.

Pleas in law and main arguments

Before entering into the Council's service, the applicant worked in the chancellery of the Land Mecklenburg-Western Pomerania in Brussels. In the present action she challenges the decision refusing to grant her the expatriation allowance.

In support of her action, the applicant pleads breach of Article 4(1)(a) of Annex VII to the Staff Regulations in that the Council did not consider that she was in circumstances arising from work done for another State. The applicant also pleads breach of the principle of equal treatment and of non-discrimination.

Action brought on 4 October 2004 by Benito Latino against the Commission of the European Communities

(Case T-409/04)

(2004/C 300/99)

(Language of the case: French)

An action against the Commission of the European Communities was brought before the Court of Justice of the European Communities on 4 October 2004 by Benito Latino, residing in Lauzun (France), represented by Juan Ramón Iturriagoitia, lawyer.

The applicant claims that the Court should:

- annul the medical report of 6 May 2002 notified on 11 November 2003 and received by the applicant on 15 November 2003;
- annul the Commission Decision of 11 November 2003 received on 15 November 2003, in regard to the 5 % partial permanent invalidity agreed in the applicant's case and in regard to the imposition on the applicant of certain expenses and fees of the members of the medical committee;
- order the Commission to pay the totality of the expenses and fees of the medical committee;
- order the Commission to pay the fees and costs of these proceedings.

Pleas in law and main arguments

The applicant, a former Commission official who worked in the Berlaymont Building in Brussels from 1969 to 1991 sought in 1994 recognition of the occupational origin of his respiratory illness as a result of the exposure to asbestos which he claimed to have suffered. An initial Commission Decision in response to that request, which acknowledged the occupational origin of his illness and determined the rate of invalidity at 5 %, was annulled by the Court of First Instance in Case T-300/97 ⁽¹⁾ brought by the applicant.

Following the abovementioned judgment, the Commission once again brought the matter before the medical committee and after that committee had issued a fresh medical report dated 6 May 2002, the Commission adopted the contested decision.

In support of its action, the applicant first claims that the majority report of the medical committee is in breach of Article 73 of the Staff Regulations inasmuch as it took no account of the dissenting report. Furthermore, the report did not satisfy the conditions laid down by the case-law of the Court of First Instance and contained contradictory and unintelligible assessments.

The applicant also pleads the infringement of Articles 3, 17 and 20 of the rules concerning coverage of the risks of accidents or sickness in the case of officials, the third paragraph of the annex thereto and of Articles 381 to 383 and 387 et seq. of the Belgian invalidity tables. He further pleads a lack of objectivity on the part of the medical committee, as well as alleged hostility to him by two of its members. In the applicant's view, a new medical committee ought to be established in order to ensure observance of his rights of defence.

⁽¹⁾ OJ 1998, C 41, p. 23.

Action brought on 6 October 2004 by Jean-Paul Keppenne against the Commission of the European Communities

(Case T-411/04)

(2004/C 300/100)

(Language of the case: French)

An action against the Commission of the European Communities was brought before the Court of Justice of the European Communities on 6 October 2004 by Jean-Paul Keppenne, residing in Etterbeek (Belgium), represented by Paul-Emmanuel Ghislain, lawyer.