



C/2024/3586

17.6.2024

**Appeal brought on 20 February 2024 by Michael Heßler against the judgment of the General Court (Fourth Chamber) delivered on 20 December 2023 in Case T-369/22, Michael Heßler v European Commission**

**(Case C-137/24 P)**

(C/2024/3586)

*Language of the case: German*

**Parties**

*Appellant:* Michael Heßler (represented by: I. Steuer-Lutz, Rechtsanwältin)

*Other party to the proceedings:* European Commission

**Form of order sought**

The appellant claims that the Court should:

- set aside the judgment of the General Court (Fourth Chamber) of 20 December 2023 in Case T-369/22;
- annul the European Commission's decision on the complaint of 25 March 2022;
- order the European Commission to continue to grant the tax abatement pursuant to the second subparagraph of Article 3(4) of Regulation (EEC, EURATOM, ECSC) No 260/68, <sup>(1)</sup> as set out in Conclusions 222/04 of the Heads of Administration, <sup>(2)</sup> with retroactive effect from 1 August 2021, as long as the conditions are met;
- order interest to be paid on the payments not made, pursuant to the Financial Regulation;
- order the defendant to pay the costs.

**Grounds of appeal and main arguments**

In support of his appeal, the appellant relies on the following grounds:

1. The General Court misinterpreted the concept of 'act affecting [the person concerned] adversely' in Article 90(2) of the Staff Regulations of Officials and the Conditions of Employment of Other Servants of the European Economic Community and the European Atomic Energy Community; <sup>(3)</sup>
2. The General Court infringed the appellant's right to good administration under Article 41 of the Charter of Fundamental Rights because it failed to find that the European Commission had infringed the obligation to state reasons for decisions or that the European Commission had infringed the right to be heard before the adoption of a decision adversely affecting the person concerned;
3. The General Court infringed the appellant's right to receive the remuneration to which he was entitled by
  - (a) establishing a link, which does not in fact exist, between the grant of a child allowance and of a tax abatement in respect of a dependent child;
  - (b) misinterpreting the concept of a 'dependent child' under the second subparagraph of Article 3(4) of Regulation No 260/68, in that it based dependency on the age of the child and not on the child's personal needs;
  - (c) failing to declare that the appellant is entitled to the tax abatement applied for on the basis of customary law and the principle of the protection of legitimate expectations;

<sup>(1)</sup> Regulation (EEC, EURATOM, ECSC) No 260/68 of the Council of 29 February 1968 laying down the conditions and procedure for applying the tax for the benefit of the European Communities (OJ 1968 L 56, p. 8).

<sup>(2)</sup> Conclusions No 222/04 (SEC[2004]411) of the Heads of Administration of 7 April 2004.

<sup>(3)</sup> Staff Regulations of Officials and the Conditions of Employment of Other Servants of the European Economic Community and the European Atomic Energy Community (OJ 1962 L 45, p. 1385).

- (d) misconstruing the legal nature of the tax abatement applied for; and by
  - (e) disregarding the binding effect on the European Commission of Conclusions 222/04 of the Heads of Administration and of the internal directive of the European Commission implementing those conclusions.
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