

ORDER OF THE PRESIDENT OF THE COURT OF FIRST INSTANCE
17 May 1995

Case T-102/95 R

Jean-Pierre Aubineau
v
Commission of the European Communities

(Application for interim measures – New posting)

Full text in French II - 365

Application for: suspension of the operation of the decision of the Director General of the Joint Research Centre, Ispra, posting the applicant to Ispra.

Decision: Dismissal.

Abstract of the Order

In March 1987 the applicant was engaged by the Joint Research Centre (JRC) as a member of the temporary staff in the scientific and technical service to perform the duties of Head of the Informatics Division of the JRC at Ispra.

He was posted to the Directorate-General of the JRC in Brussels in November 1992 and seconded to the Directorate-General for External Relations as Adviser in the Programs Directorate. By a supplementary agreement in February 1993 his contract as a member of the temporary staff was transformed into a contract for an indefinite period and it was stated that his place of posting was Brussels.

After having been seconded to the Commission's Humanitarian Office from October 1993 to January 1995, the applicant rejoined the Directorate-General of the JRC on 1 February 1995.

On 27 February 1995 the Director-General of the JRC informed the applicant that, within the JRC in Brussels, there was no post corresponding to his qualifications. Consequently, he decided to post the applicant to Ispra with effect from 1 April as Adviser to the Director of the Institute for System Engineering and Informatics. On 31 March the date on which he was to take up his duties in Ispra was postponed until 1 May.

Law

The urgency for the adoption of the measures requested must be assessed by examining whether the operation of the measures at issue before a decision on the substance of the case is capable of causing irreversible damage which could not be remedied even if the contested decision were annulled by the Court. The measures applied for should in any event, despite their provisional nature, not be out of proportion to the interest of the defendant in having its decisions applied, even if they are the subject of an action before the Court (paragraph 22).

See: Case T-589/93 *Ryan-Sheridan v FEACTV* [1994] ECR-SC II-257, para. 19

Within the limits imposed by the Staff Regulations, the institutions have a broad discretion to organize their departments and to assign their staff to suit the tasks entrusted to them (paragraph 23).

See: Case 61/76 *Geist v Commission* [1977] ECR 1419; Case T-49/91 *Turner v Commission* [1992] ECR II-1855

Such a discretion extends to the possibility of posting officials and members of the temporary staff to the different establishments of the institutions which are spread over several Member States. Even if a decision to post officials and members of the temporary staff causes inconvenience to them, it cannot in itself constitute an abnormal and unforeseeable event in their careers (paragraph 23).

See: *Geist v Commission*, cited above; Joined Cases 23/87 and 24/87 *Aldinger and Virgili v Parliament* [1988] ECR 4395

Accordingly, the suspension of the operation of a decision posting an employee to another establishment of the institution can be justified only by imperative and exceptional circumstances that are likely to cause him serious and irreparable harm (paragraph 23).

The Court considers that none of the arguments put forward by the applicant justifies an order suspending the operation of the contested decision (paragraphs 24 to 27).

Operative part:

The application for interim measures is dismissed.