



Reports of Cases

Case T-529/20

LR

v

European Investment Bank (EIB)

Judgment of the General Court (Seventh Chamber, Extended Composition), 7 September 2022

(Civil service – EIB staff – Remuneration – Resettlement allowance – Establishment of a member of staff's residence in his or her own home after leaving the service of the EIB – Second indent of the first paragraph of Article 13 of the EIB Staff Rules – Concept of 'home' – Literal interpretation according to a prevailing language version– Unlimited jurisdiction – Dispute of a financial character – Admissibility)

1. *EU law – Interpretation – Multilingual texts of the European Investment Bank – Uniform interpretation – Consideration of different language versions – Prevalence of the original language version according to the intention of the author of the act when it was adopted*

(see paragraphs 27-29)

2. *Officials – Staff of the European Investment Bank – Remuneration – Resettlement allowance – Purpose – Conditions for granting – Change of residence of a member of staff after leaving the service of the EIB, provided that he or she does not establish residence in his or her own home – Scope – Transfer to the place of residence of the members of his or her family – Exclusion from the benefit of the allowance – Transfer to accommodation belonging to the member of staff – Entitlement to the benefit of the allowance (Staff Regulations of the European Investment Bank, Art. 16)*

(see paragraphs 31, 35, 37-41, 45, 46, 50-62)

3. *European Investment Bank – Autonomy – Bank staff – Establishment of a contractual working regime – Consequences – Exclusion of the application by analogy of the Staff Regulations of Officials – Condition – Adverse effect on the operational autonomy of the Bank (Arts 308 and 336 TFEU)*

(see paragraphs 42, 43, 47, 48)

4. *Actions brought by officials – Staff of the European Investment Bank – Application by analogy of Article 91(1) of the Staff Regulations of Officials – Unlimited jurisdiction – Disputes of a financial character – Concept – Action for retroactive payment of resettlement allowance – Included (Staff Regulations of Officials, Art. 91(1))*

(see paragraphs 72-76)

Résumé

LR, a former member of staff of the European Investment Bank (EIB), applied to it for payment of a resettlement allowance on the ground that, following his retirement, he had moved away from his place of employment.

The EIB rejected that request on the grounds that LR owned the house into which he had moved back and that he therefore did not satisfy the conditions for the grant of the resettlement allowance provided for in Article 13 of the EIB Staff Rules ('the Staff Rules'). Following the rejection of his request for a review of that refusal, LR brought an action before the General Court seeking, first, annulment of the decision refusing him the benefit of the resettlement allowance and, second, an order requiring the EIB to pay that allowance.

That action has been upheld by the General Court, which, sitting in extended composition, has specified the conditions for the grant of the resettlement allowance after an official has left the service under Article 13 of the Staff Rules. In that context, the Court also provides clarification as to the interpretation of that general rule adopted by the EIB in the event of linguistic disparity.

Findings of the Court

The Court begins by noting that, although Article 13 of the Staff Rules provides for the payment of a flat-rate resettlement allowance to a member of staff of the EIB who has changed his or her place of residence, after leaving the service of the EIB, in order to reside at least 50 kilometres from his or her last place of employment, the benefit of that allowance is nevertheless conditional on the staff member concerned not residing in his or her own home.

As regards the literal interpretation of that provision, the Court notes the absence of a definition in the Staff Rules of the concepts of 'residence' and 'home' and the possibility of interpreting differently, on the one hand, the expression 'propre foyer' used in the French version of Article 13 of the Staff Rules and, on the other hand, the expression 'own home' used in its English version.

After recalling the settled case-law according to which, where there is disparity between the various language versions of a text of EU law, the provision in question must, in principle, be interpreted by reference to the general scheme and purpose of the rules of which it forms part,¹ the Court derogates from that case-law, in the particular circumstances of the present case, in so far as, first, Article 13 of the Staff Rules is the result of a proposal drafted and adopted in French, and, second, the EIB chose to state expressly, in the last paragraph of the introduction to the Staff Rules, that the English version, inter alia, of those rules was a 'translation of the French original'.

¹ Judgment of 21 December 2021, *Trapeza Peiraios* (C-243/20, EU:C:2021:1045 paragraph 32 and the case-law cited).

Thus, the Court decides, in order to determine objectively the intention of the author of the provision at issue when it was adopted, to interpret the terms of Article 13 of the Staff Rules in accordance with their usual meaning in the prevailing language version, which in the present case is the French-language version.

In that regard, the Court points out that, in French, the term ‘foyer’ refers to the place where fire is made and, by extension, to the place where a person’s family resides, whereas the term ‘résidence’ refers to the place or location where a person is established. It thus follows from the wording of Article 13 of the Staff Rules that payment of the flat-rate resettlement allowance is excluded when the new residence of the former member of staff coincides with the residence where his or her family lives. Since the accommodation occupied by a person does not necessarily or systematically correspond to the place of residence of the members of that person’s family, it follows from a literal interpretation of that provision that payment of the resettlement allowance is excluded only where the staff member concerned transfers his or her habitual residence to the place where the members of his or her family reside, and not where the house to which the staff member returns is his or her own home.

That literal interpretation of Article 13 of the Staff Rules is supported by its contextual interpretation. The other articles of the Staff Rules use the term ‘home’ to designate the place where the members of the family of the staff member habitually reside, and not the place of residence owned by the staff member.

The Court notes, moreover, that Article 5(4) of Annex VII to the Staff Regulations of Officials of the European Union (‘the Staff Regulations’) contains a clause excluding entitlement to the installation allowance which, according to the case-law,² applies where the official is posted to the place where his or her family already resides and moves in with them. While confirming that the EIB enjoys operational autonomy to determine the conditions of employment applicable to its staff members, the Court takes the view that that institution has not shown how its operational autonomy would be disregarded by application by analogy of that case-law to the clause excluding the right to the resettlement allowance provided for in the second indent of the first paragraph of Article 13 of the Staff Rules.

Finally, the Court notes that the teleological interpretation of Article 13 of the Staff Rules confirms that literal and contextual interpretation of that article.

The purpose of the resettlement allowance is to cover and alleviate the financial burdens involved in the resettlement of the former official or member of staff in a new environment for an indefinite but rather long period, because of the change in his or her main residence after definitely leaving the service.

It is true that the fact that the member of staff, upon leaving the service, resettles in a house of which he or she is the owner or co-owner is likely to reduce some costs linked to his or her resettlement. However, it cannot be inferred from such a circumstance that there is a general presumption that integration of the member of staff concerned into an environment different from that of his or her last place of employment would not expose him or her to any expenses.

² Judgment of 18 November 2015, *FH v Parliament* (F-26/15, EU:F:2015:137, paragraph 35).

In the light of the foregoing, the Court holds that, by refusing to grant LR entitlement to the resettlement allowance on the ground that he was the owner of the house in which he resettled, the EIB infringed Article 13 of the Staff Rules. Consequently, the Court annuls that decision of the EIB.

In addition, the Court applies by analogy Article 91(1) of the Staff Regulations, which, in disputes of a financial character brought by staff members against an institution confers unlimited jurisdiction on the EU Courts,³ and, upholding LR's claims to that effect, thus orders the EIB to pay the resettlement allowance, together with default interest.

³ Judgment of 2 October 2001, *EIB v Hautem* (C-449/99 P, EU:C:2001:502, paragraph 95).