

JUDGMENT OF THE COURT OF FIRST INSTANCE

of 30 January 2003

in Joined Cases T-303/00, T-304/00 and T-322/00: Manuel Francisco Caballero Montoya and Others v Commission of the European Communities ⁽¹⁾

(Officials — Transfer to the Community pension scheme of pension rights acquired under a national social security scheme — Late transfer — Interest paid after transfer — Commission's refusal to review the calculation of the pension rights of the officials concerned and to pay them part of that interest)

(2003/C 83/44)

(Languages of the case: Spanish and French)

In Joined Cases T-303/00, T-304/00 and T-322/00: Manuel Francisco Caballero Montoya, former official of the Commission of the European Communities, residing in Brussels, María Jesús Sáez Acevedo, an official of the Commission of the European Communities, residing in Brussels, represented by J.R. Iturriagagoitia Bassas, lawyer, Cecilio Alonso de Miguel, residing in Bornem-Wintam (Belgium), Miguel Baena Durán, residing in Torremolinos (Spain), Lucrecio Blázquez Rubia, Juan Antonio Campos Morales, Jaime Cavanillas Junquera, Carlos Fernández Liébana, Ricardo García Ayala, Luis García Collados, Pilar Gil Soria, Joaquín López Madruga, Martín Minguella Giné, Ramón Oviedo Bussells, Giovanni Ouzonoff Popoff, Raquel Sevilla García, Alfonso Solloa Inchaurtieta, José Trimiño Pérez, residing in Brussels, Juan Cornet Prat, residing in Overijse (Belgium), José Luis Gallego LaPeña, Manuel Puerta García, residing in Kraainem (Belgium), Lorenzo Sánchez García, residing in Algiers (Algeria), Kaethe Sommerau Roschinsky, residing in Buenos Aires (Argentina), officials or former officials of the Commission of the European Communities, represented by J.-N. Louis and V. Peere, lawyers, with an address for service in Luxembourg, against Commission of the European Communities (Agents: J. Currall, J. Rivas Andrés and J. Gutiérrez Gisbert) -application for annulment of the Commission's decisions contained in notes of 13 December 1999 relating to the applicant in Case T-303/00 and of 15 December 1999 relating to the applicants in Cases T-304/00 and T-322/00 refusing to review the calculation of their pension rights — the Court of First Instance (Third Chamber), composed of M. Jaeger, President, K. Lenaerts and J. Azizi, Judges; B. Pastor, Deputy Registrar, has given a judgment on 30 January 2003, in which it:

1. Joins Cases T-303/00, T-304/00 and T-322/00 for the purposes of the judgment;

2. In Case T-303/00:

- annuls the Commission's decision contained in the note of 13 December 1999 relating to the applicant's pension rights;
- dismisses the remainder of the action;
- orders the Commission to pay the costs.

3. In Case T-304/00:

- annuls the Commission's decision contained in the note of 15 December 1999 relating to the applicant's pension rights;
- dismisses the remainder of the action;
- orders the Commission to pay the costs;

4. In Case T-322/00:

- annuls the Commission's decisions contained in the notes of 15 December 1999 relating to the applicants' pension rights;
- orders the Commission to pay the costs.

⁽¹⁾ OJ C 372, 23 December 2000, C 355, 9 December 2000 and C 335, 25 November 2000.

JUDGMENT OF THE COURT OF FIRST INSTANCE

of 30 January 2003

in Case T-307/00: C v Commission of the European Communities ⁽¹⁾

(Officials — Orphan's pension — Fourth paragraph of Article 80 of the Staff Regulations — Parents' civil status — Equal treatment)

(2003/C 83/45)

(Language of the case: French)

In Case T-307/00: C, an official of the Commission of the European Communities, residing in Brussels, represented by J.-N. Louis and V. Peere, lawyers, with an address for service in Luxembourg, against Commission of the European Communities (Agents: F. Anton and A. Pillette) — application for annulment of the Commission's decision of 25 November 1999 refusing to award an orphan's pension to the applicant's child — the Court of First Instance (Fourth Chamber, Extended Composition), composed of M. Vilaras, President, V. Tiili, J. Pirrung, P. Mengozzi and A.W.H. Meij, Judges; J. Palacio González, Registrar, has given a judgment on 30 January 2003, in which it:

1. *Annuls the Commission's decision of 25 November 1999 refusing to award an orphan's pension to the applicant's child;*
2. *Orders the Commission to pay the costs, except those incurred by the Council of the European Union and those incurred by the applicant as a consequence of the Council's intervention;*
3. *Orders the Council to bear its own costs.*

(¹) OJ C 335, 25 November 2000.

Action brought on 10 January 2003 by Colette Di Marzio against Commission of the European Communities

(Case T-14/03)

(2003/C 83/47)

(Language of the case: French)

JUDGMENT OF THE COURT OF FIRST INSTANCE

of 28 January 2003

in Case T-138/01: F v Court of Auditors of the European Communities (¹)

(Officials — Reassignment — Legitimate expectations — Action for annulment and compensation)

(2003/C 83/46)

(Language of the case: French)

In Case T-138/01: F, an official of the Court of Auditors of the European Communities, residing in Luxembourg, represented by P. Goergen, lawyer, with an address for service in Luxembourg, against Court of Auditors of the European Communities (Agents: J.-M. Stenier, P. Giusta and B. Schäfer) — application, firstly, for annulment of the decision of the Court of Auditors of 4 December 2000 reassigning the applicant to the translation service and, secondly, for compensation for the non-material damage alleged by the applicant, the Court (Second Chamber), composed of R.M. Moura Ramos, President, and J. Pirrung and A.W.H. Meij, Judges; J. Plingers, Administrator, for the Registrar, has given a judgment on 28 January 2003, in which it:

1. *Annuls the decision of the Court of Auditors of 4 December 2000 reassigning the applicant to the translation service.*
2. *Dismisses the remainder of the application.*
3. *Orders the Court of Auditors to pay the costs, including those relating to the interlocutory proceedings in Case T-138/01 R.*

(¹) OJ C 259 of 15.9.2001.

An action against the Commission of the European Communities was brought before the Court of First Instance of the European Communities on 10 January 2003 by Colette Di Marzio, residing in Ginasservis (France), represented by Georges Vandersanden and Laure Levi, lawyers.

The applicant claims that the Court should:

- annul the appointing authority's decision to make a deduction from the applicant's salary corresponding, for the months of October, November and December 2001, to the weighting for France and the expatriation allowance;
- annul the decision of an unknown date depriving the applicant of the fixed allowance (the 'secretarial allowance') referred to in Article 4a of Annex VII to the Staff Regulations with effect from October 2000;
- annul the decision of an unknown date depriving the applicant of the annual travel allowance provided for in Article 8 of Annex VII to the Staff Regulations for 2001;
- reinstate all the applicant's pecuniary rights, which entails payment of the weighting for France and the expatriation allowance for October, November and December 2001; payment of the fixed allowance (the 'secretarial allowance') referred to in Article 4a of Annex VII to the Staff Regulations for the period from 1 January 2001; payment of the annual travel allowance provided for in Article 8 of Annex VII to the Staff Regulations for the whole of 2001; plus interest on all those amounts at the rate of 5,25 % per annum until full payment is made;
- order the defendant to pay damages assessed, on an equitable basis, at EUR 10 000;
- order the defendant to pay all the costs.