

Action brought on 17 October 2005 — Pickering v Commission

(Case T-393/05)

(2006/C 10/53)

*Language of the case: French***Parties***Applicant(s)*: Stephen Pickering (La Hulpe, Belgium) (represented by: N. Lhoëst, lawyer)*Defendant(s)*: Commission of the European Communities**Form of order sought**

The applicant(s) claim(s) that the Court should:

- Declare void the applicant's wage slips for the months of December 2004, January 2005 and February 2005, and all the subsequent wage slips, to the extent that they apply the illegal provisions of Regulation No 723/2004 of 22 March 2004 amending the Staff Regulations of officials of the European Communities, and Regulation No 856/2004 fixing the new correction coefficients and Regulation No 31/2005 adjusting them,
- As far as is necessary, annul the decision of the appointing authority of 4 July 2005, rejecting the applicant's complaint (R/299/05),
- Order the defendant to pay all the costs in the case.

Pleas in law and main arguments

The applicant, a Commission official, is a national of the United Kingdom. Before the entry into force of Regulation No 723/2004⁽¹⁾ amending the Staff Regulations, the applicant regularly made use of the possibility of transferring part of his remuneration to his country of origin. In accordance with the rules in force, the part transferred was increased by an amount resulting from the application of a 'correction coefficient', which was supposed to reflect the difference between the cost of living in the country of employment and in that of origin.

The new Staff Regulations lay down strict conditions for such transfers, in contrast to what was formerly the case. Moreover, the 'correction coefficient' applicable is no longer equal to that applicable to the remuneration of officials employed in the country to which the transfer is made. The latter benefit from a coefficient calculated on the basis of the cost of living in the country's capital, while the coefficient applicable to the transfers is calculated on the basis of the average cost of living in the country to which the transfer is made. Lastly, the new provisions abolish the application of the 'correction coefficient' to pensions.

In support of his action, the applicant submits a plea of the illegality of Regulation No 723/2004 to the extent that it

concerns the transfer of remuneration to the country of origin, alleging, firstly, that the grounds on which that regulation is based are misconceived. Next, he alleges a breach of the principle of equal treatment, to the extent that the new system provides for the application of a different coefficient to officials carrying out their activities in the country to which the transfer is made. The applicant also alleges a breach of the principles of legitimate expectations, acquired rights and legal certainty, and of the duty to have regard for the interests of officials.

As regards the pensions scheme, in addition to the three pleas above, the applicant pleads that it infringes the former officials' freedom of establishment, to the extent that it favours their establishment, after their employment has ceased, in a country with a lower cost of living.

⁽¹⁾ Council Regulation (EC, Euratom) No 723/2004 of 22 March 2004, amending the Staff Regulations of officials of the European Communities and the Conditions of Employment of other servants of the European Communities, OJ L 124 of 27.4.2002, p. 1.

Action brought on 17 October 2005 — Valero Jordana v Commission

(Case T-394/05)

(2006/C 10/54)

*Language of the case: French***Parties***Applicant*: Gregorio Valero Jordana (Brussels, Belgium) (represented by: M. Merola and I. van Schendel, lawyers)*Defendant*: Commission of the European Communities**Form of order sought**

The applicant claims that the Court should

- annul:
 - (a) the decision of the Director General of the Legal Service not to award him, for the 2004 promotion exercise, priority points under Article 5(2)(a) of the General Implementing Provisions of Article 45 of the Staff Regulations, as is apparent from the Sysper 2 computerised system, confirmed by the Appointing Authority's decision of 16 November 2004 rejecting the applicant's appeal lodged on 4 October 2004.