

Case 134/87

Androniki Vlachou

v

Court of Auditors of the European Communities

(Inadmissibility)

Order of the Court (First Chamber), 24 September 1987 3633

Summary of the Order

*Officials — Actions — Interest in bringing one — None — Inadmissible
(Staff Regulations of Officials, Arts 90 and 91)*

ORDER OF THE COURT (First Chamber)
24 September 1987 *

In Case 134/87

Androniki Vlachou, an official of the Court of Auditors of the European Communities, residing at 21 rue Bertels, Luxembourg, represented by Victor Biel, of the Luxembourg Bar, with an address for service in Luxembourg at his Chambers, 18 A rue des Glacis,

applicant,

* Language of the Case: French.

v

Court of Auditors of the European Communities, represented by Michael Becker and Marc Ekelmans, Members of its Legal Department, acting as Agents, with an address for service in Luxembourg at the Court of Auditors of the European Communities, 29 rue Aldringen,

defendant,

APPLICATION for a declaration that the decision of the President of the Court of Auditors by which he annulled the applicant's staff report in respect of the period between 1 December 1984 and 31 December 1985 is void,

THE COURT (First Chamber)

composed of: F. Schockweiler, President of Chamber, G. Bosco and R. Joliet, Judges,

Advocate General: C. O. Lenz

Registrar: P. Heim

having heard the views of the Advocate General,

makes the following

Order

By an application lodged at the Court Registry on 28 April 1987, Mrs Vlachou, a translator in Grade LA/6 in the Greek Section of the Translation Department of the Court of Auditors, brought an action essentially for a declaration that the decision of the appointing authority of 6 February 1987 annulling the applicant's staff report for the period from 1 December 1984 to 31 December 1985 is void.

- 2 The staff report at issue was drawn up on 27 February 1986. As a result of the remarks made by the applicant and consultation of an outside assessor who was asked to examine Mrs Vlachou's translations, the report was amended by a memorandum of 16 May 1986.
- 3 The applicant lodged an appeal against the report, asking for a further improvement in the assessments made therein and that the report on her translation work drawn up by the outside assessor should be made available to her. On 18 July 1986, the appeal assessor amended the staff report at issue, improving it in accordance with the opinion expressed by the Joint Committee on Staff Reports. However, the appeal assessor refused to transmit to the applicant the report drawn up by the external assessor on the ground that that document also contained assessments of another official.
- 4 The applicant submitted a complaint under Article 90 (2) of the Staff Regulations against the staff report thus amended. In a memorandum of 6 February 1987, the appointing authority admitted that the failure to communicate the outside assessor's report to the applicant because it also referred to another official constituted a defect in the reports procedure, decided to annul the staff report in question and to draw up a new report for the period under consideration. It is against that decision that the applicant has brought this action.
- 5 *In limine*, the Court of Auditors argued that the application was inadmissible on the ground that since the reporting procedure in question had been annulled, the applicant had no interest in bringing the action.
- 6 Under Article 92 (2) of the Rules of Procedure, the Court may at any time of its own motion consider whether there exists any absolute bar to proceeding with the case, in particular because it is inadmissible, and give its decision in accordance with Article 91 (3) and (4) without opening the oral procedure.
- 7 Since the file contains all the evidence necessary in order to arrive at a decision, there is no need to hear oral argument on behalf of the parties.

- 8 It should be observed that according to settled case-law, any application must be based on an interest on the part of the applicant in bringing proceedings (see, most recently, the Order of 18 March 1987 in Case 13/86 *Bonkewitz-Linder v European Parliament* [1987] ECR 1417).
- 9 It can be seen from the file that the applicant in this case contested the staff report at issue in the form in which it was first drawn up for reasons connected both with its contents and with its compliance with formal requirements. It may also be seen from the file that the decision to annul that report was adopted by the appointing authority of the Court of Auditors on the basis of a submission made by the applicant herself in her official complaint, namely that the report was unlawful on the ground that the report drawn up by an external assessor had not been communicated to her.
- 10 Under those circumstances, it must be decided that the applicant had no interest in applying to the Court for a declaration that the appointing authority's decision annulling her staff report was void. The effect of that decision was to grant the applicant an opportunity to defend to the full her legitimate interests in obtaining a correct assessment of her capacities and competence in the context of a new report procedure.
- 11 In her application, the applicant points out that notwithstanding the decision to annul her staff report, the external assessor's report is still in the file of the assessor responsible for drawing up a new report concerning her.
- 12 However, as the Court of Auditors rightly emphasized, it is clear that since the staff report at issue has been annulled, the procedure of drawing up a report concerning the applicant will be recommenced, and therefore the facts and information gathered in the context of the procedure which has been annulled cannot exercise any influence on the new procedure.
- 13 It must therefore be held that the application is inadmissible on the ground that the applicant does not have an interest in bringing the proceedings.

Costs

- 14 Under the terms of Article 69 (2) of the Rules of Procedure, the unsuccessful party is to be ordered to pay the costs. However, under Article 70 of those Rules, the institutions are to bear their own costs in proceedings commenced by officials of the Communities.

On those grounds,

THE COURT (First Chamber)

hereby:

- (1) Dismisses the application as inadmissible;
- (2) Orders the parties to bear their own costs.

Luxembourg, 24 September 1987.

P. Heim
Registrar

F. Schockweiler
President of the First Chamber.