



Reports of Cases

ORDER OF THE EUROPEAN UNION CIVIL SERVICE TRIBUNAL
(Third Chamber)
15 June 2016

Case F-55/12

Hilke Riemer-Sullivan
v
European Commission

(Civil service — Officials — Pensions — Transfer of national pension entitlements —
Proposals concerning additional pensionable years — Act not having an adverse effect —
Inadmissibility of the action — Absolute bar to proceeding — Article 82 of the Rules of Procedure)

Application: under Article 270 TFEU, applicable to the EAEC Treaty pursuant to Article 106a thereof, in which Ms Hilke Riemer-Sullivan sought annulment of the decision of the appointing authority of the European Commission of 6 March 2012 rejecting her complaint against the ‘decisions’ fixing the years to be credited to the European Union pension scheme in respect of pension rights which she acquired under two German pension schemes and, in so far as was necessary, of the ‘decisions’ of 7 November 2011 calculating the years to be credited.

Held: The action is dismissed. Ms Hilke Riemer-Sullivan is to bear her own costs and is ordered to pay the costs incurred by the European Commission.

Summary

1. Judicial proceedings — Action before the Civil Service Tribunal — Applicant not having requested the Tribunal to deliver a judgment by default — Taking into account of the institution’s responses to a measure of organisation of procedure — Defence not submitted within the prescribed time-limit — No effect

2. Actions brought by officials — Act adversely affecting an official — Definition — Proposal concerning additional pensionable years with a view to a transfer to the EU pension scheme of pension rights acquired before entry into the service of the EU — Not included (Staff Regulations, Art. 91(1) and Annex VIII, Art. 11(2))

1. Where an applicant has not, at any point in the proceedings, requested the Civil Service Tribunal to deliver a judgment by default and to find in his favour, account must be taken of the institution’s responses to a measure of organisation of procedure, even if that institution has not submitted its defence within the prescribed time-limit.

(see para. 12)

See:

Judgments of 13 October 2015, *Commission v Verile and Gjergji*, T-104/14 P, EU:T:2015:776, and *Teughels v Commission*, T-131/14 P, EU:T:2015:778

2. Claims for the annulment of a proposal concerning additional pensionable years with a view to the transfer to the EU pension scheme of pension rights acquired under another system must be interpreted as seeking annulment of the final decision crediting those additional years where, first, the parties agree that the official concerned had given his consent to the continuance of the procedure for transferring his pension rights acquired before entry into the service of the EU, by indicating his agreement to the proposal made to him, and, second, where that final decision was adopted before the action was brought before the Courts of the Union.

Where the final decisions crediting additional pensionable years resulting from pension rights which the applicant had acquired under two national pension schemes were adopted after the action was brought, that action cannot be reclassified as an action against those two final decisions and must be declared inadmissible because it was directed against acts not adversely affecting the applicant.

(see paras 22-24)

See:

Judgments of 13 October 2015, *Commission v Verile and Gjergji*, T-104/14 P, EU:T:2015:776, paras 62, 110 and 120, and *Teughels v Commission*, T-131/14 P, EU:T:2015:778, para. 58