

EUROPEAN UNION CIVIL SERVICE TRIBUNAL

Action brought on 1 January 2006 — Fernandez Ortis v Commission

(Case F-1/06)

(2006/C 74/64)

Language of the case: Spanish

Parties

Applicant: Juan Miguel Fernandez Ortis (Madrid, Spain) (represented by: J. R. Iturriagoitia Bassas, lawyer)

Defendant: Commission of the European Communities

Form of order sought

The applicant claims that the Court should:

- declare that the dismissal of the applicant by decision of 17 June 2005 is unlawful, constituting an abuse of legal process, and accordingly annul that decision and the decision associated with it of 23 September 2005;
- order the defendant to pay the costs.

Pleas in law and main arguments

The applicant, a former official of the Commission, took up his duties on 1 February 2004, the date on which his nine-month probationary period began, in accordance with Article 34(1) of the Staff Regulations of officials of the European Communities.

A report of 4 October 2004 recommended his dismissal, but the Commission decided exceptionally to extend his probationary period until 30 April 2005 in accordance with Article 34(3) of the Staff Regulations. By decision of 17 June 2005 the Commission dismissed the applicant with effect from 1 July 2005.

In support of his application, the applicant claims that his dismissal is unlawful on the ground that he was dismissed 17 months after the commencement of his probationary period, which, under Article 34(4) of the Staff Regulations, may not exceed 15 months.

Action brought on 6 January 2006 — Frankin and Others v Commission

(Case F-3/06)

(2006/C 74/65)

Language of the case: French

Parties

Applicants: Jacques Frankin (Sorée, Belgium) and Others (represented by: G. Bounéou and F. Frabetti, lawyers)

Defendant: Commission of the European Communities

Form of order sought

The applicants claim that the Court should:

- annul the explicit decision of 10 June 2005 whereby the Commission refused to afford the applicants assistance under Article 24 of the Staff Regulations;
- order the Commission to make good all the loss thereby sustained by the applicants;
- order the defendant to pay the costs.

Pleas in law and main arguments

The applicants, who are all officials or other servants of the Commission, had sought to have their pension entitlement acquired in Belgium transferred to the Community system, in accordance with the provisions of a Belgian law enacted in 1991. In 2003 Belgium enacted a new law, which, in the applicants' submission, provides more favourable for new transfers of that type. As the applicants had already transferred their rights, however, they were unable to take advantage of the provisions of the Law of 2003.

The applicants therefore submitted a request seeking to obtain the assistance provided for in Article 24 of the Staff Regulations. The Commission, which had no intention of assisting its officials and temporary servants to secure those transfers, rejected their request by decision of 10 June 2005.

By their action, the applicants contest that decision, which they treat as a refusal to afford assistance, in breach of Article 24 of the Staff Regulations. In addition to that article, they rely in support of their claims on a breach of the duty to have regard to the welfare of the staff, of the principle of non-discrimination, of the prohibition of unfair process, of the obligation to state reasons, of legitimate expectations and of the rule *patere legem quam ipse fecisti* and on a misuse of powers.