

Form of order sought

The applicant claims that the Tribunal should:

- Annul the Appointing Authority's decision of 17 November 2005 to send the applicant on parental leave from 8 November 2004 until an unspecified date;
- Annul the Appointing Authority's decision of 6 April 2005;
- Annul the decision to grant parental leave from 1 November 2004 to 30 April 2005 inclusive, and/or the salary slip for November 2004, and/or the Commission's decision of 30 November 2004 not to take account of the request for deferment or cancellation of the parental leave;
- Find that from 1 November 2004 (or 8 November 2004) until 30 April 2005 inclusive the applicant had all the substantive rights connected with the active service of an official and that therefore payment according to her grade and step must be made to her with retroactive effect;
- Find that this payment must be made with interest for late payment;
- Find that the applicant may still request parental leave (even if, after the date when judgment is delivered, her son is more than or nearly 12 years old) since the failure to approve the request submitted is the Commission's fault; alternatively, that, since the Commission is responsible for the applicant's inability to take parental leave, she must be paid compensation corresponding to the loss of the benefits for parental leave, insurance, seniority, pension rights, appraisal reports and promotion opportunities; or, in the further alternative, that she must be paid damages for the period of parental leave not taken for loss of the benefits for parental leave, insurance and pension rights;
- Order the defendant to pay compensation for the material and non-material damage caused by the decision of 17 November 2005, assessed at EUR 4 000 and EUR 5 000 respectively;
- Order the defendant to pay EUR 2 500 as compensation for the uncertainty caused to the applicant regarding her status as an official and the non-material damage resulting from that uncertainty;
- Compensate the applicant for the value of seven days of parental leave;
- Order the defendant to pay the costs.

Pleas in law and main arguments

In Case F-51/05,⁽¹⁾ the applicant already challenged the fact that the Commission granted her parental leave for the period from 1 November 2004 to 30 April 2005. In this case, she challenges the Appointing Authority's decision, taken in the meantime, of 17 November 2005, which set the date of the start of the parental leave as 8 November 2004.

In support of her action, the applicant submits that the decision of 17 November 2005 infringed the Treaty, the Staff Regulations and a number of legal principles. In particular, according to the applicant, that decision: (i) contains errors including, for

example, an incorrect statement about a Court of First Instance case; (ii) is inaccurate for a number of reasons including, among others, a failure to specify on which of the applicant's complaints the decision is based, a failure to include the date of the end of the parental leave and a failure to include a description of the decision's effects; (iii) is drafted in a language other than that used by the applicant, in breach of Article 21 EC; (iv) does not cite any legal basis; (v) contains contradictions; (vi) states insufficient reasons; (vii) has retroactive effect although there was no longer any application for parental leave pending; (viii) fails to take account of the fact that the Appointing Authority's original decisions over the whole period were unlawful; (ix) takes no account of the application to defer the parental leave.

Furthermore, the wording of the contested decision creates the impression that the applicant is at least in part responsible for the muddle, whereas she has acted very carefully and produced a large number of documents.

⁽¹⁾ OJ C 217, 3.9.2005 (case initially registered before the Court of First Instance of the European Communities under number T-249/05 and transferred to the European Union Civil Service Tribunal by order of 15.12.2005).

Action brought on 3 February 2006 — Michail v Commission

(Case F-34/06)

(2006/C 154/57)

Language of the case: Greek

Parties

Applicant: Christos Michail (Brussels, Belgium) (represented by: C. Meïdanis, lawyer)

Defendant: Commission of the European Communities

Form of order sought

The applicant claims that the Tribunal should:

- Annul the applicant's Career Development Report (CDR) for the year 2004, as established by the SYSPER2 system in which it is included;
- Annul the Appointing Authority's decision of 4 November 2005 rejecting the applicant's complaints;
- Order the defendant to pay compensation for the non-material damage suffered by the applicant, amounting to EUR 120 000;
- Make an appropriate order as to costs.

Pleas in law and main arguments

The applicant, an official in Grade A*12, challenges the validity of the CDR which the defendant established for him for the year 2004. In support of his action, he submits, first, that that CDR assesses and includes a statement of reasons only for the period from 1 May 2004 to 31 December 2004 inclusive, while the first four months of that year were not taken into account, even by means of a reference to the mark in the interim note specifically covering that period. That omission constitutes an infringement of Article 4(3) of the General Provisions for Implementing Article 43 of the Staff Regulations. The applicant adds that, in any event, the interim note was drawn up by an authority without the power to do so.

Next, the applicant claims that in the second part of 2004 his superiors only entrusted him with tasks of a circumstantial or ancillary nature which were of no use for the purpose of drawing up a CDR for an official of his grade.

The applicant alleges, lastly, infringement of Article 12a of the Staff Regulations on psychological harassment.

Action brought on 26 April 2003 — C v Commission

(Case F-44/06)

(2006/C 154/58)

Language of the case: French

Parties

Applicant: C (Brussels, Belgium) (represented by: S. Orlandi and J.-N. Louis, lawyers)

Defendant: Commission of the European Communities

Form of order sought

The applicant claims that the Tribunal should:

- Annul the Appointing Authority's decision of 13 June 2005 refusing to adopt any measure to comply with the judgment of the Court of First Instance of the European Communities of 23 November 2004 in Case T-376/02 *O v Commission* ⁽¹⁾;
- Annul the decision of the Director of DG ADMIN/C: Social welfare policy, Luxembourg staff, health, safety of 23 February 2006 compulsorily retiring the applicant with entitlement to an invalidity pension to be determined in accordance with the provisions of the second paragraph of Article 78 of the Staff Regulations, with retroactive effect from 1 February 2002;
- Order the defendant to pay the applicant a sum assessed on equitable grounds at EUR 15 000 on account of breach of

the principle that decisions must be adopted within a reasonable time;

- Order the defendant to pay the costs.

Pleas in law and main arguments

Following the judgment in *O v Commission*, cited above, the applicant applied for the adoption by the Appointing Authority of measures to comply with that judgment. When that application was rejected, the applicant made a complaint, which was, in its turn, rejected in part by a decision of 11 January 2006. The Appointing Authority then adopted a new decision, dated 23 February 2006, compulsorily retiring the applicant with entitlement to an invalidity pension to be determined in accordance with the provisions of the second paragraph of Article 78 of the Staff Regulations, with retroactive effect from 1 February 2002.

In support of his action, the applicant submits, first, that the last decision does not constitute full compliance with the judgment referred to above, in that it does not restore the applicant to his legal position before the adoption of the decision annulled by the Court of First Instance.

Also, the decision of 23 February 2006 infringes Article 53 of the Staff Regulations, which provides that an official to whom the Invalidity Committee finds that the provisions of Article 78 apply must automatically be retired on the last day of the month in which the Appointing Authority recognises his permanent incapacity to perform his duties.

Lastly, the applicant alleges breach of the principle that decisions must be adopted within a reasonable time, inasmuch as the decision of 23 February was adopted 15 months after the abovementioned judgment was delivered.

⁽¹⁾ ECR SC [2004] I-A-349 and II-1595.

Action brought on 8 May 2006 — Aimi and Others v Commission

(Case F-47/06)

(2006/C 154/59)

Language of the case: French

Parties

Applicants: Naomi Aimi (Evere, Belgium) and Others (represented by: A. Coolen, J.-N. Louis and E. Marchal, lawyers)

Defendant: Commission of the European Communities