

First of all, the applicant submits that in the documents preparatory to her taking up her appointment the allowances in question, being in the nature of pay, were expressly stated to be payable in full notwithstanding the fact that she had declared that she was married to an official of the European Union resident in Brussels. She adds that her employment contract was signed on 7 January 2004 on that basis and the conditions of remuneration could not be changed unilaterally.

The applicant also alleges unlawfulness under Article 241 EC and the third paragraph of Article 20 of the Decision on SNEs. That provision discriminates in favour of individuals who opt for a non-marital relationship as against members of a lawful union. It also results in unequal treatment since it does not allow the applicant to receive additional remuneration on an equal footing with other SNEs, whether married or not. The provision in question infringes Article 14 of the European Convention on Human Rights, Articles 2, 3, 13 and 141 EC and Council Directive 2000/43/EC of 29 June 2000 implementing the principle of equal treatment between persons irrespective of racial or ethnic origin. <sup>(1)</sup>

<sup>(1)</sup> OJ L 180, 19.7.2000, page 22.

**Action brought on 10 May 2006 — Davis and Others v Council**

(Case F-54/06)

(2006/C 154/64)

*Language of the case: French*

**Parties**

*Applicants:* John Davis (Bolton, United Kingdom), Svend Mikkelsen (Sabro, Denmark), Dorrit Pedersen (Copenhagen, Denmark) and Margareta Strandberg (Axminster, United Kingdom) (represented by: S. Orlandi, A. Coolen, J.-N. Louis and E. Marchal, lawyers)

*Defendant:* Council of the European Union

**Form of order sought**

The applicants claim that the Tribunal should:

- Annul the Council decisions determining the applicants' pension entitlements, on the grounds that the portion of their pension entitlement acquired after 30 April 2004 is not multiplied by a correction coefficient, and that the correction coefficient by which the portion of their pension entitlement acquired before 30 April 2004 is multiplied differs from that by which the remuneration of officials in active employment in the United Kingdom or Denmark is multiplied;

- Order the Council of the European Union to pay the costs.

**Pleas in law and main arguments**

The applicants, all former officials of the European Communities resident in the United Kingdom or Denmark, retired after the entry into force of the new Staff Regulations.

In support of their action, they plead the illegality of Article 82 of the Staff Regulations, Articles 1(3) and 3(5) of Annex XI to the Staff Regulations and of Article 20 of Annex XIII to the Staff Regulations, which entered into force on 1 May 2004.

They also allege breach of the principle of equal treatment and non-discrimination in that, under the abovementioned provisions, officials who retired after 1 May 2004 do not enjoy the guarantee of equivalent purchasing power irrespective of their place of residence. In the same way, they do not enjoy purchasing power equivalent to that of their colleagues with the same income in active employment, their pension being multiplied by a country-related correction coefficient while that of their colleagues in active employment is multiplied by a capital-related correction coefficient.

The applicants also allege breach of their vested rights and the principle of the protection of legitimate expectations, in that they were entitled to expect their pension entitlements to be calculated in accordance with the rules which were in force when they joined the service and throughout almost all their career.

Lastly, they allege breach of the principle of freedom of movement and establishment for workers, on the ground that the withdrawal of the correction coefficient applicable to their entire pension means that they are no longer guaranteed freedom of establishment for their centre of interests, if they are not, in some circumstances, to be penalised by a reduction in their purchasing power as against that of their colleagues resident in places with a lower cost of living.

**Action brought on 2 May 2006 — de Albuquerque v Commission**

(Case F-55/06)

(2006/C 154/65)

*Language of the case: French*

**Parties**

*Applicant:* Augusto de Albuquerque (Brussels, Belgium) (represented by: C. Mourato, lawyer)

*Defendant:* Commission of the European Communities