

**Action brought on 22 October 2007 — Strack v Commission**

(Case F-120/07)

(2007/C 315/95)

*Language of the case: German***Parties***Applicant:* Guido Strack (Cologne, Germany) (represented by: H. Tettenborn, lawyer)*Defendant:* Commission of the European Communities**Form of order sought**

The applicant claims that the Tribunal should:

- Annul the decisions of the European Commission of 30 May 2005, 25 October 2005, 15 March 2007 and 20 July 2007 to the extent that they limit to 12 the number of days of unused annual leave for 2004 which the applicant was allowed to carry over to the following year and to limit accordingly the compensation for unused leave paid to the applicant at the time that he left the service;
- Order the European Commission to pay the applicant financial compensation for 26,5 days unused leave in respect of which no compensation has been paid in accordance with the second paragraph of Article 4 of Annex V to the Staff Regulations, plus interest, from 1 April 2005, at a rate of 2 % per year above the main refinancing operations rate fixed by the European Central Bank for the period in question;
- Order the Commission of the European Communities to pay the costs.

**Pleas in law and main arguments**

In support of his application, the applicant invokes an infringement of the first and second paragraphs of Article 4 of Annex V to the Staff Regulations and of the defendant's Administrative Notice No 66-2002. According to those provisions, he was entitled to carry over in its entirety to 2005 that part of his annual leave for 2004 which, by reason of the requirements of the service, he had been unable to use up before the end of the calendar year 2004, something which the defendant's contested decision refused him permission to do. He was unable to use up his leave due to the illness which the defendant has in the interim accepted is occupational in nature.

The applicant also claims that it can be seen from the accessory claim for damages that the defendant unlawfully refused to pay the compensation due to the applicant in accordance with the second paragraph of Article 4 of Annex V to the Staff Regulations at the time that the applicant left the active service.

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The applicant claims that the Tribunal should:

- Annul the decisions of the European Commission of 12 January 2007, 26 February 2007 and 20 July 2007 to the extent that they deny the applicant immediate and comprehensive access to all data and documents in the defendant's possession concerning him. That means, at the present moment and in their current versions, transmission of complete, preferably electronic, copies of the following documents, or, in the alternative, an unrestricted right to examine the abovementioned data and documents and to make copies thereof and notes thereon:
  - his official personal file, in accordance with the requirements of Article 26 of the Staff Regulations, and all additional parallel files — including electronic ones (for example, Sysper 2);
  - all documents relating to the procedure and decisions concerning the assessments made of him and his promotions since 1 January 2002;
  - the OLAF files in Case OF/2002/0356;
  - the files in the proceedings concerning his application of 7 March 2005;