

The applicant subsequently adds that the Commission officials who spread and even included in an inquiry report false information about her occupational illness were guilty of serious misconduct. That misconduct leads to liability on the part of the defendant, who should therefore pay compensation for the material and non-material damage suffered by the applicant.

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**Action brought on 3 February 2006 — Tolios and Others  
v Court of Auditors**

(Case F-8/06)

(2006/C 74/68)

*Language of the case: French*

**Parties**

*Applicants:* Iraklis Tolios (Paris, France), François Muller (Strasbourg, France) and Odette Perron (La Rochelle, France) (represented by: G. Vandersanden and L. Levi, lawyers)

*Defendant:* Court of Auditors

**Form of order sought**

The applicants claim that the Court should:

- declare the action admissible and well founded, including the objection of illegality contained therein;
- in consequence, annul the applicants' pension slips for March 2005, the effect of which will be to apply a weighting at the level of the capital of their country of residence or, at the very least, a weighting capable of adequately reflecting the differences in the cost of living in the places where the applicants are deemed to incur their expenditure and therefore consistent with the principle of equivalence;
- order the defendant to pay the costs.

**Pleas in law and main arguments**

The applicants in the present case are all officials who retired before 1 May 2004. They contest the transitional regime put in place, pending the abolition of weightings, by Council Regulation (EC, Euratom) No 723/2004 of 22 March 2004 amending the Staff Regulations of officials of the European Communities and the Conditions of Employment of other

servants of the European Communities <sup>(1)</sup>, in so far as that regime is based on new 'pension' weightings which are no longer calculated by reference to the capital but according to the average cost of living in the Member State in which the pensioner shows that he has established his principal residence.

In support of their claims, the applicants maintain, first of all, that the regulation is based on incorrect reasoning, in so far as neither the deepened integration of the Community, nor freedom of movement and residence, nor the difficulty in monitoring the actual place of residence of pensioners can serve as a basis for the transitional regime in question.

The applicants further maintain that there has been a breach in the present case of the principles of equal treatment, legal certainty, the retroactivity of acquired rights and the protection of legitimate expectations.

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<sup>(1)</sup> OJEU 2004 L 124 of 27.04.2004, p. 1.

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**Action brought on 30 January 2006 — Canteiro Lopez v  
Commission**

(Case F-9/06)

(2006/C 74/69)

*Language of the case: French*

**Parties**

*Applicant:* Rui Canteiro Lopez (Lisbon, Portugal) and Others (represented by: S. Orlandi, A. Coolen, J.-N. Louis, E. Marchal, lawyers)

*Defendant:* Commission of the European Communities

**Form of order sought**

The applicant claims that the Court should:

- Annul the decision of the Appointing Authority of 13 October 2005 not to add the applicant's name to the list of officials judged to be the most deserving and not to promote him to Grade A4 in the 2000 promotion exercise.
- Order the defendant to pay the costs.

### Pleas in law and main arguments

On 21 December 2000, the applicant submitted a complaint against the decision not to promote him to Grade A4 in the 2000 promotion exercise. On 2 July 2001, the defendant allowed that complaint and informed the applicant that action had been taken to finalise his staff report, but this was not done. As a result, the applicant submitted an application for information about the steps taken as a result of that decision of 2 July 2001. The defendant, after having acknowledged that the 1995-1997 and 1997-1999 staff reports had not yet been finalised, offered to set the applicant's 1997-1999 report at the same level as the report which he had obtained for the period 1991-2001.

Although the applicant refused that offer, the defendant nevertheless concluded the applicant's staff report for the period 1997-1999 and decided not to add his name to the list of officials judged to be the most deserving, and not to promote him to Grade A4 in the 2000 promotion exercise.

In support of his action, the applicant first submits that that decision is invalidated inasmuch as it was taken without there being any lawfully finalised staff reports for the periods at issue. The defendant is accused of effectively committing a breach of its administrative duty by not ensuring that the applicant's staff reports for the period between 1 July 1995 and 30 June 1999 were drawn-up at the appropriate time.

The applicant also maintains that the defendant carried out the consideration of the applicant's comparative merits in an improper manner, inasmuch as it made use of alternative criteria, such as age and length of service, which may only be applied where the officials eligible for promotion are of equal merit, a condition which was not met in this instance. The contested decision therefore infringes Article 45 of the Staff Regulations and the principle of equal treatment.

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### Action brought on 31 January 2006 — Larsen v Commission

(Case F-11/06)

(2006/C 74/70)

*Language of the case: French*

### Parties

*Applicants:* Holger Larsen (London, United Kingdom) and Others (represented by: S. Orlandi, A. Coolen, J.-N. Louis, E. Marchal, lawyers)

*Defendant:* Commission of the European Communities

### Form of order sought

The applicants claim that the Court should:

- Annul the decision of 2 March 2005 made by the Director of the Office for Administration and Payment of Individual Entitlements to reduce the applicant's remuneration from 1 May 2005;
- Order the defendant to pay the applicant the rent allowance to which he is entitled, since the day on which it ceased to be paid to him, together with compensatory interest calculated at a rate two points above the central rate of the European Central Bank;
- Order the defendant to pay the costs.

### Pleas in law and main arguments

The applicant, an official assigned to the Commission Representation Office in London, received from 1 October 2002 a rent allowance under Article 14a of Annex VII to the Staff Regulations and Regulation No 6/66/Euratom and No 121/66/EEC<sup>(1)</sup>. That article was repealed when the Staff Regulations were reformed and so the Commission, by decision of 2 May 2005, withdrew that allowance from the applicant.

In support of his action, the applicant first alleges the infringement of Article 62 of the Staff Regulations and Article 19 of Annex XIII thereto. He points out, in particular, that the defendant was wrong to apply the latter article in accordance with the interpretation adopted by the Heads of Administration on 14 October 2004, which excludes the rent allowance from the remuneration covered by the transitional measures laid down in that article. Such an interpretation is unlawful, inasmuch as it reduces the scope of the net income guarantee referred to by the provision in question.

In addition, the applicant contends that the contested decision infringes the principle of the equivalent purchasing power of officials, as prescribed by Articles 64 and 65 of the Staff Regulations.

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<sup>(1)</sup> Regulation No 6/66/Euratom, 121/66/EEC of the Councils of 28 July 1966 laying down the list of places for which a rent allowance may be granted, the maximum amount of that allowance and the rules for granting it, OJ, English Special Edition 1965-6 (1), p. 212.