

Joined Cases T-17/89, T-21/89 and T-25/89

Augusto Brazzelli Lualdi and Others

v

Commission of the European Communities

(Officials — Remuneration — Default and compensatory interest)

Judgment of the Court of First Instance (Second Chamber), 26 February  
1992 ..... II - 294

Summary of the Judgment

1. *Officials — Remuneration — Five-yearly adjustment — Arrears of salary — Entitlement to default interest — None, in the absence of a definite or quantifiable sum*  
(Staff Regulations of Officials, Art. 65)
2. *Officials — Remuneration — Weightings — Belated five-yearly adjustment — Fault on the part of the administration — Damage resulting from currency depreciation — General link — Right to compensatory interest*  
(Staff Regulations of Officials, Art. 65(2))

1. An obligation to pay default interest can arise only where the amount of the principal sum is certain or can at least be ascertained on the basis of established objective factors. Since the powers conferred on the Council by Article 65 of the Staff Regulations for adjusting the remuneration and pensions of officials

and other servants and for fixing the weightings applicable thereto involve the exercise of a discretion, no certainty exists as to the amount of those adjustments and the fixing of the weightings until the Council has exercised its powers and adopted the regulation on the matter, so that, if that

condition is not satisfied, the arrears of salary do not have to bear default interest if they are paid without undue delay after the adoption of the said regulation.

2. It follows from Article 65(2) of the Staff Regulations that decisions adjusting the weightings applicable to remuneration must be taken without unjustifiable delay. Accordingly, any inexcusable delay in enacting the regulations in that area must be regarded as constituting a fault. In considering the question whether a delay is unjustified, account must be taken of the fact that the institutions must have a reasonable period, depending on the circumstances

of the particular case and the complexity of the matter, in which to finalize their proposals or decisions.

When a regulation concerning the adjustment of weightings is adopted upon the termination of an exceedingly long and unjustified preparatory procedure, its retroactive application cannot make good the damage resulting, for those concerned, from the loss of purchasing power of the arrears of remuneration paid with several years' delay. Such damage, occasioned by the wrongful delay on the part of the administration, gives rise to a right to the payment of compensation.

JUDGMENT OF THE COURT OF FIRST INSTANCE (Second Chamber)  
26 February 1992 \*

In Joined Cases T-17/89, T-21/89 and T-25/89,

**Augusto Brazzelli Lualdi and Others,**

**Cleto Bertolo and Others,**

**Helga Alex and Others,**

\* Language of the case: Italian.