

Case T-65/92

Monique Arauxo-Dumay

v

Commission of the European Communities

(Officials — Measure terminating the service of officials —
Survivor's pension — Marriage failing to fulfil the condition as to
prior duration laid down by the Staff Regulations)

Judgment of the Court of First Instance (Fourth Chamber), 17 June 1993 II - 598

Summary of the Judgment

1. *Officials — Pensions — Survivor's pension — Condition as to prior duration of marriage — Account taken of cohabitation — None*
(Staff Regulations, Annex VIII, Arts 17a and 20; Council Regulation No 3518/85, Art. 4(8))
2. *Officials — Duty of the administration to have regard to the interests of officials — Limits — Interpretation of a provision of the Staff Regulations contrary to its wording — Not permissible*

1. The condition as to the prior duration of marriage provided for by Articles 17a and 20 of Annex VIII to the Staff Regulations and by Article 4(8) of Regulation No 3518/85 introducing special measures to terminate the service of officials of the European Communities as a result of the

accession of Spain and Portugal refers, for the purpose of conferring on the surviving spouse a right to a survivor's pension, to the situation of persons who have formally contracted a civil marriage recognized by law, with all the rights and obligations which that entails. It is not for the

Court to widen the judicial interpretation of the specific terms used in the provisions in question in order to bring cohabitation within the definition of marriage. Any extension of that concept would alter the legal basis of the provisions in question, with serious legal and financial consequences for the Communities and for third parties. A change on that scale can

only be made by the Community legislature if it considers such a change to be necessary.

2. The duty to have regard to the interests of officials cannot lead the administration to interpret a Community provision in a manner contrary to the specific wording of that provision.

JUDGMENT OF THE COURT OF FIRST INSTANCE (Fourth Chamber)
17 June 1993 ¹⁰

In Case T-65/92,

Monique Arauxo-Dumay, widow of Louis Dumay, a former official of the Commission of the European Communities, residing at Saint-Flovier (France), represented by Georges Vandersanden, of the Brussels Bar,

applicant,

v

Commission of the European Communities, represented by Joseph Griesmar, Legal Adviser, acting as Agent, with an address for service in Luxembourg at the office of Nicola Annecchino, of its Legal Service, Wagner Centre, Kirchberg,

defendant,

APPLICATION for the annulment of the Commission's decision, notified to the applicant by letter of 16 December 1991, refusing her a widow's pension and

¹⁰ Language of the case: French.