

Case T-59/89

Wolfdieter Graf Yorck von Wartenburg

v

European Parliament

(Removal from the register)

Order of the Court of First Instance (Fifth Chamber), 29 January 1990 25

Summary of the Order

Procedure — Personal appearance of the parties — Object — Amicable settlement of the proceedings

(Rules of Procedure, Art. 45(2)(a))

ORDER OF THE COURT OF FIRST INSTANCE (Fifth Chamber)
29 January 1990 *

In Case T-59/89

Wolfdieter Graf Yorck von Wartenburg, a former temporary official in the European Parliament, residing at 3-4 Clos de Parnasse, Brussels, represented by Victor Elvinger, of the Luxembourg Bar, with an address for service in Luxembourg at his Chambers, 4 rue Tony-Neuman,

applicant,

* Language of the case: French.

v

European Parliament, represented by Francesco Pasetti Bombardella, juriconsult, and Manfred Peter, Head of the Legal Division, acting as Agents, with an address for service in Luxembourg at the General Secretariat of the European Parliament, Kirchberg,

defendant,

APPLICATION for the annulment of the decisions of 31 May and 6 October 1988 of the Director-General for Staff, Budget and Finances of the European Parliament, the annulment of the decision of 21 April 1988 of Mr Klepsch, Chairman of the Group of the European People's Party on the applicant's position under Council Regulation (Euratom, ECSC, EEC) No 2274/87 of 23 July 1987 introducing special measures to terminate the service of temporary staff of the European Communities (Official Journal 1987, L 209, p. 1), and an order that the European Parliament, as an institution, formally deliver to him in person a decision granting him the benefit of the abovementioned regulation,

THE COURT OF FIRST INSTANCE (Fifth Chamber)

composed of: H. Kirschner, President of Chamber, C. P. Briët and J. Biancarelli, Judges,

Registrar: H. Jung

makes the following

Order

- 1 On 25 September 1987 the applicant, W. Yorck von Wartenburg, a temporary official in the European Parliament from 1 June 1974 to 31 December 1988 working for the Group of the European People's Party, requested the application to him of the provisions of Council Regulation (Euratom, ECSC, EEC) No 2274/87 of 23 July 1987 introducing special measures to terminate the service of temporary staff of the European Communities (Official Journal 1987, L 209,

- p. 1). Following various exchanges of correspondence with Mr van den Berge, Director-General for Staff, Budget and Finances of the European Parliament, the latter sent to the applicant a decision from the Chairman of the Group of the European People's Party, Egon Alfred Klepsch, dated 21 April 1988 applying to the applicant the provisions of Council Regulation No 2274/87 from 31 December 1988.
- 2 After receiving that decision the applicant sent to Mr van den Berge on 26 August 1988 a letter repeating his request for formal notification from the European Parliament and not from the Chairman of the political group in question. In reply Mr van den Berge stated in a letter dated 6 October 1988 that the chairmen of the political groups had been appointed to carry out the duties of appointing authority for temporary officials of political groups.
 - 3 Those were the circumstances in which Mr Yorck von Wartenburg brought an action, which was registered at the Registry of the Court of Justice on 5 January 1989 and referred to the Court of First Instance by order of 15 November 1989, claiming primarily the annulment of the aforementioned decisions of 31 May and 6 October 1988 of Mr van den Berge and, alternatively, the annulment of Mr Klepsch's decision of 21 April 1988. The applicant requested further that the European Parliament, as an institution, should formally serve on him in person a decision granting him the benefit of Council Regulation No 2274/87.
 - 4 On 10 March 1989, without lodging a defence on the substance of the case, the European Parliament raised an objection of inadmissibility based on failure to comply with the first subparagraph of Article 91(2) of the Staff Regulations, the applicant's lack of interest in bringing an action and the fact that no act adversely affecting him had been communicated to him.
 - 5 The applicant lodged observations, registered on 10 April 1989, contending that the objection of inadmissibility should be rejected.

- 6 Since it considered clarification of the applicant's situation with regard to Council Regulation No 2274/87 to be necessary, the Court of First Instance (Fifth Chamber), by order of 6 December 1989 pursuant to Article 45(2) of the Rules of Procedure of the Court of Justice applicable by reason of Article 11(3) of the Council Decision of 24 October 1988 establishing a Court of First Instance of the European Communities, ordered the applicant and also a representative of the European Parliament duly empowered to bind the defendant institution by his statements to appear in person at the hearing of the Fifth Chamber on 24 January 1990.
- 7 At the hearing the parties were informed by the Court of First Instance of the purpose of their appearance in person, namely to facilitate the amicable settlement of the proceedings. The representatives of the parties put forward orally their point of view as to what constituted the real subject-matter of the case. It then appeared that the parties' positions could be reconciled.
- 8 In those circumstances the representative of the European Parliament undertook, within the framework of the Staff Regulations applicable to officials and other servants of the European Communities, to apply the provisions of Council Regulation No 2274/87 fully and completely to Mr Yorck von Wartenburg until his retirement and subsequently to determine the applicant's pension rights and pay the pension in accordance with the general provisions of the Staff Regulations and the special provisions of Council Regulation No 2274/87. That undertaking by the European Parliament was recorded in a document annexed to the Minutes of the hearing and duly signed by the Parliament's representative.
- 9 Mr Yorck von Wartenburg thereupon expressly stated that, as provided for in Article 78 of the Rules of Procedure of the Court of Justice, he wished to discontinue the proceedings.
- 10 The parties stated that they agreed to pay their own costs.

On those grounds,

THE COURT OF FIRST INSTANCE (Fifth Chamber)

hereby:

- (1) Orders Case T-59/89 to be removed from the register;**
- (2) Orders the parties to bear their own costs.**

Luxembourg, 29 January 1990.

H. Jung
Registrar

H. Kirschner
President of the Fifth Chamber