

Case T-48/89

Fernando Beltrante and Others

v

Council of the European Communities

(Officials — Travel expenses for persons treated as dependent children — Conditions for reimbursement)

Judgment of the Court of First Instance (Third Chamber), 26 September 1990 495

Summary of the Judgment

1. *Officials — Staff Regulations — Application — Joint decision taken by the Heads of Administration — Not binding on the appointing authority*
(*Staff Regulations, Art. 110, third paragraph*)
2. *Officials — Reimbursement of expenses — Travel expenses from the place of employment to the place of origin — Reimbursement of expenses incurred in respect of persons treated as dependent children — Condition — Residence at the official's place of employment*
(*Staff Regulations, Art. 71; Annex VII, Art. 8*)
3. *Officials — Equal treatment — Concept — Flat-rate reimbursement of travel expenses — Conditions for granting — Different conditions for dependent children and persons treated as such — Permissibility*
(*Staff Regulations, Annex VII, Art. 8*)

1. A conclusion adopted by the Committee of Heads of Administration as part of the process whereby 'the administration departments of the institutions . . . consult each other regularly' pursuant to the third paragraph of Article 110 of the Staff Regulations in order to follow a uniform administrative practice with regard to the interpretation of one of the provisions of the Staff Regulations does not have the effect of binding the appointing authority when it adopts individual measures implementing the provision in question.

2. An official who is entitled to the household allowance qualifies for the flat-rate repayment of travel expenses from his place of employment to his place of origin for persons treated as if they were dependent children, provided that those persons reside for most of the year at the place where the official is employed or within a radius defined, on a case-by-case basis, in the light of local circumstances and the means of transport.

That interpretation, which is consistent with the wording of Article 8(1) of Annex VII to the Staff Regulations, is borne out by the objective of that provision, which is to enable the official and his dependants to return, at least once a year, to the official's place of origin in order to maintain family, social and cultural links there. The possibility for an official to retain his personal links with the place where his principal interests are situated constitutes a general principle of the law governing the European public service.

The Staff Regulations intend thereby to facilitate the travelling of all the members of the family, in the broad sense, who were obliged to leave their place of origin because the Community official took up his appointment. Accordingly, the reimbursement of travel expenses is not a family allowance whose purpose is to relieve the official concerned of expenses incurred for persons treated as if they were dependent children, but a payment intended to cover expenses incurred by the official in the performance of his duties, which is borne out by the fact that Article 8 of Annex VII to the Staff Regulations has been included in Section 3 of that annex, which lays down the conditions for the application of the basic principle, enshrined in Article 71 of the Staff Regulations, of the reimbursement of such expenses.

3. Whilst the general principle of equality is one of the fundamental principles of Community law, it applies, as the Court of Justice has consistently held, only to persons who are in identical or comparable situations.

The administration does not infringe that principle by making the flat-rate reimbursement of travel expenses conditional, in the case of persons treated as if they were dependent children, on those persons' living at the place where the official is employed even though no such condition is laid down as regards dependent children. An official's children, who are part of the family unit in the strict sense and in respect of whom there is a presumption of cohabitation, are not in the same circumstances as persons treated as if they were dependent children, who are members of the family only in the broad sense.