

Case T-16/89

Hans Herkenrath and Others

v

Commission of the European Communities

(Officials — Remuneration — Default interest and compensation)

Judgment of the Court of First Instance (Second Chamber), 26 February
1992 II - 276

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, Article 65)
2. *Officials — Remuneration — Weightings — Five-yearly adjustment — Arrears of salary — Loss resulting from monetary depreciation — Claim for compensation — Unfounded in the absence of a fault on the part of the administration.*
(Staff Regulations, Article 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 drafted and then adopted within a period which is justified by the circumstances of the case, any loss resulting for the persons concerned from the loss of purchasing power of their arrears of remuneration cannot, in the absence of any fault on the administration's part, give rise to any entitlement to payment of compensation.

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

In Case T-16/89,

Hans Herkenrath and Others, officials and other servants of the Commission of the European Communities, represented by B. Potthast and H. J. Rüber, Rechtsanwälte, with an address for service in Luxembourg at the Chambers of Ernest Arendt, 4 Avenue Marie-Thérèse,

applicants,

v

Commission of the European Communities, represented by Henri Étienne, Legal Adviser, acting as Agent, with an address for service in Luxembourg at the office of Roberto Hayder, representing its Legal Service, Wagner Centre, Kirchberg,

defendant,

* Language of the case: German.