

Case T-25/01

Francisco Miguel Viana França
v
Commission of the European Communities

(Officials – Special leave for elections – Travelling time – Supporting documents – Lack of competence – Obligation to cooperate and act in good faith – Principle of proportionality – Action manifestly unfounded in law)

Full text in Portuguese II - 951

Application for: annulment of the Commission's decision of 31 March 2000 refusing to grant the applicant travelling time in connection with special leave for elections.

Held: The action is dismissed as manifestly unfounded. The applicant is ordered to bear all the costs.

Summary

*1. Officials – Appointing authority – Powers – Exercise – Sub-delegation – Whether permissible – Conditions
(Staff Regulations, Art. 2)*

*2. Officials – Leave – Special leave – Special leave for elections – Travelling time – Reduction in the case of travel by air – Lawfulness
(Staff Regulations, Art. 57, second para.; Annex V, Art. 7)*

3. Officials – Internal directive of an institution – Amendment – Whether permissible – Condition – Compliance with the Staff Regulations

1. A sub-delegation or deviation from the criteria for division of the powers conferred by the Staff Regulations on the appointing authority cannot render void an act done by the administration unless such sub-delegation or deviation involves the possibility of adversely affecting one of the guarantees given to officials by the Staff Regulations or the principles of good administration in staff management.

(see para. 40)

See: 46/72 *De Greef v Commission* [1973] ECR 543, para. 21; 49/72 *Drescig v Commission* [1973] ECR 565, para. 13; T-23/96 *De Persio v Commission* [1998] ECR-SC I-A-483 and II-1413, paras 110 to 112

2. The second paragraph of Article 57 of the Staff Regulations provides that it is only 'exceptionally' that an official 'may' be granted special leave and Article 7 at the end of Annex V to the Staff Regulations provides that 'any' travelling time is to be fixed by special decision 'taking into account particular needs'. Consequently, it cannot be disputed that an institution is perfectly entitled to modify its previous practice and to fix the travelling time in connection with special leave for elections on the basis of the time actually needed to travel to and return from the place of voting. In that regard, it may reasonably be held, in accordance with the principle of sound management of Community funds, that, in the case of travel by air, that time will be limited to two days in total.

(see paras 58-59)

3. There is nothing to prevent an institution from amending an indicative rule of conduct which it imposes on itself and is contained in an internal decision of a general nature, provided that the amended rule of conduct remains consistent with the provisions and aims of the Staff Regulations.

(see para. 62)

See: T-134/96 *Smets v Commission* [1997] ECR II-2333, para. 65