

Case T-13/93

Roger Cordier

v

Commission of the European Communities

(Officials — Joint Sickness Insurance Scheme — Spouse covered by member's insurance — Conditions governing entitlement to supplementary reimbursement — Free choice of medical practitioner — Consultations abroad)

Judgment of the Court of First Instance (Fifth Chamber), 24 November 1993 II - 1217

Summary of the Judgment

1. *Officials — Social security — Sickness insurance — Spouse in gainful employment — Right to supplementary cover under member's insurance — Scope — Medical expenses incurred abroad — Included — Conditions — Compliance with procedures required by national scheme (Staff Regulations, Art. 72(1); Rules on Sickness Insurance, Arts 3 and 6)*
2. *Officials — Actions — Action under Article 179 of the Treaty — Review of legality of national provisions in the light of Community law — Lack of jurisdiction of the Court of First Instance (EEC Treaty, Art. 179)*
3. *Officials — Social security — Sickness insurance — Rules on sickness insurance — Free choice of medical practitioner — Implications for internal legal order of Member States — None (EEC Treaty, Art. 189, second para.; Staff Regulations, Art. 72(1); Rules on Sickness Insurance, Art. 9(1))*

4. *Officials — Actions — Action seeking a ruling on the lawfulness of a general provision, in the absence of an act adversely affecting the official — Inadmissible (EEC Treaty, Art. 179; Staff Regulations, Art. 91)*

1. Both Article 72 of the Staff Regulations and Articles 3 and 6 of the Rules on Sickness Insurance for Officials of the European Communities assume that, as far as possible, the spouse of an official who is in gainful employment must seek reimbursement of medical expenses from the sickness insurance scheme which covers him or her against sickness by virtue of his or her own employment, the Joint Scheme providing only supplementary cover.

Thus, a spouse who, under the statutory, administrative or other rules governing the benefits provided by the insurance fund of which he or she is a member by reason of his or her own employment, is not entitled to, or cannot request authorization enabling him or her to obtain, reimbursement of medical expenses which he or she incurs abroad can claim supplementary cover, as can a spouse who, having requested such authorization where the relevant provisions or rules of the insurance fund allow, is refused it.

On the other hand, where the spouse of an official loses the right to obtain reimbursement for such medical expenses from his or her own insurance fund solely because he or she did not at the appropriate time seek authorization to consult a doctor or receive treatment abroad, he or

she cannot claim supplementary reimbursement of those expenses by the Joint Scheme, the basis for which is contained in Article 72(1) of the Staff Regulations.

2. It is not for the Court of First Instance, when reviewing the legality of measures under Article 179 of the Treaty, to rule on the legality in Community law of national provisions. That power of review falls either to the Court of Justice, in actions brought under Articles 169 and 170 of the Treaty, or to the national courts, which may, if appropriate, refer a question to the Court of Justice under Article 177 of the Treaty for a preliminary ruling on the interpretation of the Treaty.

3. The principle of freedom of choice of practitioner is not enshrined in the Staff Regulations themselves but derives from Article 9(1) of the Rules on Sickness Insurance for officials drawn up by agreement between the institutions of the European Communities. Accordingly, the provisions relating to the free choice of practitioner do not fall within the category defined in the second paragraph of Article 189 of the Treaty; they are not binding in their entirety and directly applicable in all the Member States and thus cannot have the effect of invalidating national legal or other rules which might restrict that freedom.

4. In proceedings brought under Article 91 of the Staff Regulations, the Court of First Instance has jurisdiction only to review the lawfulness of an act adversely affecting an official and is not entitled, in the absence of an individual implementing measure, to rule in the abstract on the lawfulness of a provision of a general nature.

JUDGMENT OF THE COURT OF FIRST INSTANCE (Fifth Chamber)
24 November 1993^{*}

In Case T-13/93,

Roger Cordier, an official of the Commission of the European Communities, residing in Luxembourg, represented by Jean-Noël Louis, of the Brussels Bar, with an address for service at the offices of Fiduciaire Myson SARL, 1 Rue Glesener,

applicant,

v

Commission of the European Communities, represented by Gianluigi Valsesia, Principal Legal Adviser, acting as Agent, assisted by Alberto Dal Ferro, of the Vicenza Bar, with an address for service in Luxembourg at the office of Nicola Anecchino, of its Legal Service, Wagner Centre, Kirchberg,

defendant,

APPLICATION firstly, for annulment of the decision of the Luxembourg claims settlement office of 9 March 1992 refusing the applicant supplementary reimbursement of medical expenses incurred by his wife in Belgium and, secondly, for a declaration that the provisions for the interpretation of Article 9(1) of the Rules on Sickness Insurance for Officials of the European Communities, published in *Administrative Notices* on 31 December 1990, are unlawful,

^{*} Language of the case: French