

JUDGMENT OF THE COURT OF FIRST INSTANCE (First Chamber)
26 February 2003

Case T-212/01

Arnaldo Lucaccioni
v
Commission of the European Communities

(Officials – Insurance Against the Risk of Accident and of Occupational Disease
– Aggravation of injuries – Aggregation of lump sum and allowance provided
for by Articles 12 and 14 respectively of the Insurance Rules)

Full text in French II - 387

Application for: annulment of the decision of the Commission of 16 November 2000 suspending the procedure to examine a request to recognise an aggravation of his occupational illness and refusal to take action on that request and a claim for damages.

Held: The decision of the Commission, notified to the applicant by letter of 16 November 2000, to suspend the procedure provided for by Article 22 of the Insurance Rules and not to act on the applicant's request seeking the recognition of the aggravation of his occupational illness is annulled. The remainder of the application is dismissed. The Commission is ordered to pay the costs.

Summary

*1. Officials – Actions – Prior complaint – Same purpose and submissions – Pleas and arguments not appearing in the complaint, but closely linked to it – Admissibility
(Staff Regulations, Arts 90 and 91)*

*2. Officials – Social security – Insurance against accidents and occupational diseases – Allowance for accidents and occupational diseases – Lump sum for permanent invalidity – Allowance for injury or permanent disfigurement – Limitation of combined amount to the maximum payable as lump sum for total permanent invalidity – Not permissible
(Staff Regulations, Art. 73; Rules on the Insurance of Officials against the Risk of Accident and of Occupational Disease, Arts 12 and 14)*

1. The rule of consistency between the complaint and the application requires any plea put forward before the Court, if it is to be admissible, to have been raised already in the context of the pre-litigation procedure, so that the administration may be sufficiently precisely aware of the criticisms made against the disputed decision. However, while the statement of the form of order applied for may contain only ‘heads of claim’ based on the same matters as the heads of claim raised in the complaint, the former may none the less be developed before the Court by the submission of pleas and arguments which need not necessarily appear in the complaint but must be closely linked to it.

(see para. 33)

See: T-58/91 *Booss and Fischer v Commission* [1993] ECR II-147, para. 83; T-496/93 *Allo v Commission* [1995] ECR-SC I-A-127 and II-405, para. 26

2. The lump sum paid in the event of the permanent invalidity of an official, pursuant to Article 73 of the Staff Regulations and Article 12 of the Rules on the Insurance of Officials against the Risk of Accident and of Occupational Disease, and the allowance paid under Article 14 of those rules relate to different forms of harm.

Unlike Articles 73 and 12, which compensate for harm to actual bodily or mental health, in other words for the victim's resulting invalidity, Article 14 compensates an official for any injury or permanent disfigurement which, although not affecting his capacity for work, constitutes a physical defect and has an adverse effect on his social relations. Article 14 is thus intended to compensate for the actual harm, once proven, which the physical defect causes to the victim's social relationships, regardless of the invalidity which that injury or disfigurement might also entail.

Limiting the combined amount of the sums payable under Articles 12 and 14 to the maximum payable under Article 12 would, in certain cases, have the effect of preventing or limiting compensation for the forms of harm covered by Article 14, despite the fact that they are clearly of a different nature. Since it certainly does not appear to be an implicit rule that is obviously to be deduced from the Insurance Rules, but a new rule, and one which is likely to lead to a breach of the principle of equal treatment, it is not permissible.

(see paras 42, 45-46)

See: Opinion of Advocate General La Pergola, *C-76/95 Commission v Royale belge* [1996] ECR I-5505, point 30