

Case T-52/89
(Summary publication)

Alfonso Piemonte

v

Council of the European Communities

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

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 place of employment to 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(1)*)
3. *Officials — Equal treatment — Concept — Flat-rate reimbursement of travel expenses — Conditions of granting — Different conditions for dependent children and persons treated as such — Permissibility*
(*Staff Regulations, Annex VII, Art. 8(1)*)

1. A joint decision taken by the heads of administration pursuant to the third paragraph of Article 110 of the Staff Regulations, which provides that 'the administration departments of the institutions shall consult each other regularly', for the purpose of following a

uniform administrative practice with regard to the interpretation of one of the provisions of the Staff Regulations is not binding on the appointing authority when it adopts individual measures applying that provision.

2. An official entitled to the household allowance qualifies for the flat-rate reimbursement of travel expenses from his place of employment to his place of origin incurred in respect of persons treated as dependent children, provided that they reside for most of the year at the official's place of employment or in an area defined, as the case may be, on the basis of its urban situation and the means of transport available.

This interpretation, which is in accordance with the wording of Article 8(1) of Annex VII to the Staff Regulations, is corroborated by the purpose 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 preserve family, social and cultural ties with that place. It is a general principle of the law governing the European public service that it must be possible for an official to retain his personal links with the place where his principal interests are situated.

The objective of the Staff Regulations is thus to facilitate the travel of all members of the family, understood in the wider sense, who were obliged to leave their place of origin by virtue of the official's entry into service. Accordingly, reimbursement of travel expenses does not constitute a family allowance, the purpose of which would be to compensate the official concerned for expenses incurred in respect of persons treated as dependent children, but rather

a payment designed to cover the expenses which he has incurred while performing his duties, as is made clear by the position of Article 8, cited above, in Section 3 of Annex VII, which deals with the conditions for the application of the fundamental principle set out in Article 71 of the Staff Regulations that such expenses should be reimbursed.

3. Although the general principle of equality of treatment is one of the fundamental principles of Community law, it applies, according to well-established case-law, only to persons who are in identical or comparable situations.

The administrative authorities do not fail to comply with that principle if they make the flat-rate reimbursement of travel expenses for persons treated as dependent children subject to the condition that such persons reside at the official's place of residence, whereas that condition is not imposed in the case of dependent children. The position of the official's children, who form part of the family unit in the strict sense and are presumed to live with him, differs from that of persons treated as dependent children, who are members of the family only in the wider sense.

(The grounds of this judgment are identical in all respects to those of the judgment delivered on the same day, 26 September 1990, in Case T-48/89 *Beltrante and Others v Council* [1990] ECR II-493.)