Case T-154/89

Raimund Vidrányi

v

Commission of the European Communities

(Official — Recognition that disease is an occupational disease)

Summary of the Judgment

1. *Officials — Social security — Insurance against the risk of accident and of occupational disease — Medical report — Non-adversary procedure — Direct communication of medical documents — Administration's obligations — None*
   (Staff Regulations of Officials, Arts 26 and 73; Rules on Insurance against the Risk of Accident and of Occupational Disease, Arts 17 to 23)

2. *Officials — Social security — Insurance against the risk of accident and of occupational disease — Medical report — Non-adversary procedure — Rights of the defence — Limits — Hearing of the official — Medical Committee's power of assessment*
   (Staff Regulations of Officials, Art. 73)

3. *Officials — Social security — Insurance against the risk of accident and of occupational disease — Medical report — Judicial review — Limits*
   (Staff Regulations of Officials, Art. 73; Rules on Insurance against the Risk of Accident and of Occupational Disease, Art. 28)

1. Article 26 of the Staff Regulations cannot be used, outside the specific framework established by the Rules on the Insurance of Officials against the Risk of Accident and of Occupational Disease, in order to set up an adversary procedure covering documents of a medical nature, including correspondence between an official and the administration relating to a decision refusing to recognize that his disease resulted from his occupation.

Moreover, no provision of the Rules requires an institution to communicate directly to the person concerned all that correspondence.

Nor can an institution be criticized for not having communicated directly to the applicant, by placing them in his personal file or otherwise, medical documents drawn up in the context of the procedure established by Articles 17 to 23 of the Rules which are confidential specifically as regards him and also the appointing authority.

The procedure in question seeks on the contrary to protect medical confidentiality and to reconcile it with the official's rights by allowing him access to medical documents relating to him through the doctor chosen by him.

With regard to the documents relating to the inquiry carried out by the administration under Article 17(2) of the Rules, they must appear in an official's personal file only if the findings contained in those documents can, outside the context of the procedure established by the Rules, affect the official's administrative status in so far as the facts which they recount form the basis of reports concerning the ability, efficiency or conduct of the official.

There is no provision of the Rules requiring the report drawn up following the inquiry to be communicated to the official directly. The report is of a medical nature in so far as it contains findings of fact concerning an incident at work which may serve as a basis for the procedure for the recognition of the existence of an accident at work or an occupational disease. However, the 'full medical report', which the official may ask to be communicated to the doctor of his choice and which must be communicated to the members of the Medical Committee provided for by Article 23 of the Rules, must include the report drawn up following the inquiry.

2. It is for the Medical Committee to determine whether there is a need for a hearing of the person concerned and, if so, the length of that hearing, particularly having regard to the completeness of the medical file already before it.

In the light of the nature of the Medical Committee's work, which is not intended to resolve a dispute after hearing both sides, such a hearing is not required by virtue of the principles concerning the right to a fair hearing.

3. The Court of First Instance's review does not extend to medical appraisals properly so called, which must be regarded as definitive if they were made in a regular manner.

The attribution of an official's mental disease to the make-up of his personality and not to his working conditions or the conduct of his superiors is a medical assessment of which the only aspects open to review by the Court of First Instance are the reasons upon which it is based.

Provided that the Medical Committee does not rely on a misconception of what is an occupational disease and establishes a comprehensible link between the medical findings and the conclusions in its report, neither the report nor the decision of the institution refusing, on the basis of that report, to recognize that the official's disease results from his occupation is vitiated by a failure to state the reasons on which it is based.

JUDGMENT OF THE COURT OF FIRST INSTANCE (Third Chamber)
12 July 1990 *

In Case T-154/89,

Raimund Vidrányi, a former official of the Commission of the European Communities, residing in Luxembourg, represented by Blanche Moutrier, of the Luxembourg Bar, with an address for service in Luxembourg at her Chambers, 16 avenue de la Porte-Neuve,

applicant,

v

Commission of the European Communities, represented by its Legal Adviser, J. Griesmar, acting as Agent, with an address for service in Luxembourg at the office of Georgios Kremlis, a member of the Commission's Legal Department, Wagner Centre, Kirchberg,

defendant,

APPLICATION for the annulment of the Commission's decision of 13 January 1989 refusing to recognize that the applicant's disease resulted from his occupation,

* Language of the case: French.