

JUDGMENT OF THE COURT OF FIRST INSTANCE (Second Chamber)
11 September 2002

Case T-89/01

Claude Willeme
v
Commission of the European Communities

(Officials – Obligations imposed by the Staff Regulations – Declaration of spouse’s employment – Personal interest such as to impair independence – Obligation of discretion – Obligation to act in the interests of the Communities – Duty to act in good faith – Disciplinary proceedings – Non-contractual liability – Assessment of non-material harm)

Full text in French II - 803

Application for: first, annulment of the decision of 19 June 2000 downgrading the applicant from Grade A 3 to Grade A 6 and, second, for compensation for the harm allegedly suffered by the applicant as a result of that decision.

Held: The Commission’s decision of 19 June 2000 downgrading the applicant from Grade A 3 to Grade A 6 is annulled. The Commission is ordered to pay to the applicant the sum of one euro by way of compensation for the non-material harm suffered by him. The Commission is ordered to pay the costs.

Summary

1. *Officials – Rights and obligations – Obligation to declare spouse’s gainful employment – Scope*
(Staff Regulations, Art. 13)
2. *Officials – Rights and obligations – Obligation of independence and integrity – Obligation to inform the administration as a precaution of any possible conflict of interests*
(Staff Regulations, Art. 14)
3. *Officials – Rights and obligations – Obligation of independence and integrity – Scope*
(Staff Regulations, Art. 11, first para.)
4. *Officials – Rights and obligations – Spouse’s right to be gainfully employed – Employment as such not a breach of the official’s obligation of independence*
(Staff Regulations, Arts 11, second para., and 13)
5. *Officials – Actions – Action for compensation – Annulment of the contested unlawful measure – Appropriate compensation for non-material harm – Limits*
(Staff Regulations, Art. 91)

1. Article 13 of the Staff Regulations, which imposes on the official the obligation to inform the appointing authority by which he is employed of any gainful

employment engaged in by his spouse, applies irrespective of the nature, duration or extent of the gainful employment of the official's spouse.

(see para. 34)

2. Under Article 14 of the Staff Regulations, an official who in the performance of his duties is called upon to decide on a matter in the handling or outcome of which he has a personal interest such as to impair his independence must inform the appointing authority. In the light of the fundamental nature of the objectives of independence and integrity pursued by that provision and in view of the fact that the obligation laid down consists, for the official concerned, in informing the appointing authority as a precaution, Article 14 of the Staff Regulations has a wide scope. It covers any circumstance which the official who is called upon to decide on a matter must reasonably understand as being such as to be seen by third parties as a possible source of impairment of his independence in that matter. However, the existence of professional relations between an official and a third party cannot, in principle, mean that the official's independence is or appears to be impaired when that official is called upon to decide on a matter in which that third party is involved.

(see paras 47, 58)

3. The first paragraph of Article 11 of the Staff Regulations requires that the official conduct himself, in all circumstances, in a manner guided solely by the interests of the Communities and prohibits any conduct which, in the light of the circumstances of the case, indicates that the official concerned took into account an interest other than the Community interest.

(see para. 71)

4. The Staff Regulations provide for the right for the spouse of an official to receive remuneration without that constituting, in itself, a breach of the second paragraph of Article 11 of the Staff Regulations. Consequently, under Article 13 of the Staff Regulations, the spouse of an official may engage in gainful employment and receive remuneration without there being any need for the official to obtain the permission of the appointing authority since he is obliged only to declare that employment. Accordingly, the receipt of remuneration by the spouse of an official without prior permission from the appointing authority cannot, as such, constitute a breach by him of the second paragraph of Article 11 of the Staff Regulations.

(see para. 74)

5. Except in special circumstances, the annulment of a decision imposing a disciplinary measure on an official constitutes, in itself, appropriate and, in principle, sufficient compensation for the non-material harm which that official may have suffered as regards his professional reputation. However, the non-material harm suffered by that official through having been excluded from the world of work for a long period may give rise to separate compensation.

(see paras 97, 101)

See: C-343/87 *Culin v Commission* [1990] ECR I-225, paras 25 to 29; T-165/89 *Plug v Commission* [1992] ECR II-367, para. 118; T-140/97 *Hautem v EIB* [1999] ECR-SC I-A-171 and II-897, para. 82