

JUDGMENT OF THE COURT OF FIRST INSTANCE (Second Chamber)
16 April 2002

Case T-51/01

Joachim Fronia
v
Commission of the European Communities

(Officials – Reorganisation of the Commission’s administrative structures –
Reassignment of a former Head of Unit as an *ad personam* adviser)

Full text in French II - 187

Application for: annulment of the decisions under which, at the time of the reorganisation of the Commission’s administrative structures, the applicant was not kept on as an acting Head of Unit but reassigned as an *ad personam* adviser.

Held: The application is dismissed. The parties are to bear their own costs.

Summary

1. Officials – Actions – Act adversely affecting an official – Definition – Reassignment decision communicated orally to the person concerned (Staff Regulations, Arts 90 and 91)

2. Officials – Assignment – Reorganisation of departments – Due regard to the equivalence of posts – Scope – Interests of the service (Staff Regulations, Art. 7)

3. Officials – Assignment – Reorganisation of departments – Reassignment of an official together with his post – Obligation to consult the staff report – None

4. Officials – Decision adversely affecting an official – Reassignment – Duty to state grounds – Scope (Staff Regulations, Art. 25, 2nd para.)

1. An act adversely affects an official only where, in going beyond mere measures for the internal organisation of the service, it is capable of directly, individually and permanently affecting his position under the Staff Regulations.

An oral reassignment decision which has the direct effect of excluding an official from the management structures impairs his administrative status inasmuch as it changes the nature of his duties and the conditions for their performance and must therefore be considered to be an act adversely affecting him.

(see paras 24, 31, 33)

See: 316/82 and 40/83 *Kohler v Court of Auditors* [1984] ECR 641, paras 9 to 11; C-32/92 P *Moat v Commission* [1992] ECR I-6379, paras 9 and 10; T-34/91 *Whitehead v Commission* [1992] ECR II-1723, para. 21; T-46/90 *Devillez and Others v Parliament* [1993] ECR II-699, para. 12; T-113/95 *Mancini v Commission* [1996] ECR-SC I-A-185 and II-543, paras 23 to 27; T-78/96 and T-170/96 *W. v Commission* [1998] ECR-SC I-A-239 and II-745, paras 45 and 46

2. The principle that the post to which an official is assigned should correspond to his grade calls, in the event of a change in an official's duties, for a comparison, not between his present and previous duties, but between his present duties and his grade. Accordingly, there is nothing to preclude the adoption of a decision involving the assignment of new duties which, although different from those previously carried out by the official and seen by him as constituting a diminution of his responsibilities, are nevertheless in conformity with the post corresponding to his grade. Consequently, even an actual diminution of the official's responsibilities does not constitute a breach of the principle of correspondence between post and grade unless his duties, taken as a whole, fall clearly short of those corresponding to his grade and post, taking account of their character, importance and scope.

In terms of the principles governing the Community civil service, an institution has the power, within the limits of the Staff Regulations, to assign to a member of staff lower-grade duties than those which he carried out before. In that regard, the personal interests of the official in securing the progress of his career cannot legitimately override the interests of the service as defined by the institution, in particular in the context of a reorganisation.

(see paras 53, 57)

See: T-59/91 and T-79/91 *Eppe v Commission* [1992] ECR II-2061, paras 49 and 51; *W. v Commission*, cited above, para. 104, and the case law cited therein

3. In the context of a reorganisation of departments, a decision reassigning an official, which merely reassigns him together with his post without providing for him to continue in his previous duties, concerns the administrative status of that official only. In the absence of an appointment to a vacant post, the appointing authority is not required to make a choice based on the comparative merits of several candidates. Consequently, it is not required to consult the official's staff report with a view to possible comparison with the reports of other officials.

(see para. 62)

4. The reasons given for a decision adversely affecting an official are sufficient if the measure was adopted in circumstances known to the official concerned which enable him to understand its scope. That is the case where a reassignment decision in the interests of the service has been preceded by a letter and by discussions, in which the superiors of the person concerned have explained to him the situation and the reasons for the proposed reassignment, and where the official has had the opportunity to put forward his arguments against the decision excluding him from the management structures.

(see para. 66)

See: C-294/95 P *Ojha v Commission* [1996] ECR I-5863, para. 58; *W v Commission*, cited above, para. 141