

René Teissonnière
v
Commission of the European Communities
(Inadmissibility)

Order of the Court of First Instance (Fifth Chamber), 14 December 1989 8

Summary of the Order

1. *Officials — Actions — Interest in bringing an action — Decision on contingent pension rights*
(Staff regulations, Art. 91)
2. *Officials — Actions — Act adversely affecting an official — Criteria — Statement of reasons on which the act is based*
(Staff regulations, Arts 90 and 91)
3. *Officials — Actions — Act adversely affecting an official — Concept — Preparatory act — Exclusion*
(Staff regulations, Arts 90 and 91)
4. *Officials — Actions — Prior complaint — Prescribed periods — Mandatory nature*
(Staff regulations, Arts 90 and 91)

1. Although it is true that before retirement, an uncertain future event, pension rights are contingent rights accruing from day to day, it is none the less clear that an administrative act deciding that a period of employment cannot be taken into account for the calculation of years of pensionable service, or a decision refusing a request for application of the increase provided for under Article 5 of Annex VIII to the Staff Regulations,

immediately and directly affects the legal situation of the person concerned, even if that act is to be implemented only subsequently. In principle, therefore, the official has a legitimate, present and vested interest in taking proceedings against such an act.

2. Within the framework of a continuing discussion between an institution and an official, the latter is entitled not to regard

an exchange of views as a formal decision on the part of the administration until he receives the first letter from the administration stating the grounds on which that decision is based. Only at that time does he become bound to lodge a complaint within the period laid down by the Staff Regulations.

A letter addressed to an official is not in the nature of a decision where, in particular, the author of that letter took care expressly to draw the applicant's attention to the fact that the pension calculations communicated to him were for guidance and had to be subject to subsequent confirmation.

3. An application is inadmissible if it is directed against an act preparatory to a decision, in particular against an act coming within the category of administrative information, on the ground that it refers to the subsequent adoption of a decision or does not emanate from an appointing authority.
4. The time-limits prescribed in Articles 90 and 91 of the Staff Regulations for the lodging of complaints and appeals are a matter of public policy and are not subject to the discretion of the parties or the court, since they were laid down with a view to ensuring clarity and legal certainty.

ORDER OF THE COURT OF FIRST INSTANCE (Fifth Chamber)
14 December 1989 *

In Case T-119/89

René Teissonnière, an official of the Commission of the European Communities, residing in Dakar (Sénégal), represented by Edmond Lebrun, of the Brussels Bar, with an address for service in Luxembourg at the Chambers of T. Biever, 83 boulevard Grande-Duchesse Charlotte,

applicant,

* Language of the case: French.