

Pilar Arto Hijos

v

Council of the European Communities

(Official — Recognition of an auxiliary staff contract
as equivalent to a temporary staff contract — Severance
grant — Deduction of contributions to the pension scheme)

Judgment of the Court of First Instance (Fourth Chamber), 30 June 1992 II - 1908

Summary of the Judgment

1. *Officials — Pensions — Acquisition of pension rights — Member of the auxiliary staff who has become a member of the temporary staff — Taking into account of periods of service completed as a member of the auxiliary staff — Conditions*
(Staff Regulations, Art. 83(2); Conditions of Employment of Other Servants, Art. 70)
2. *Officials — Administration's duty of assistance — Scope*
(Staff Regulations, Art. 24)
3. *Officials — Members of the temporary staff — Severance grant — Calculation — Member of the auxiliary staff who has become a member of the temporary staff — Deduction of the contribution payable by the employee to the Community pension scheme and of the employer's contributions paid to the national pension scheme*
(Staff Regulations, Art. 83(2); Conditions of Employment of Other Servants, Art. 39)

1. For the purpose of calculating the pension rights acquired by an auxiliary servant who has become a temporary servant and who leaves the service of the Communities in that capacity, there is nothing to prevent an institution from making the

assimilation of the period of auxiliary employment equivalent to a period of temporary employment subject to the two-fold condition that the person concerned pay to the institution the amounts which he would have had to pay to the

- Community pension scheme by way of the contribution referred to in Article 83(2) of the Staff Regulations and that he repay to the institution the employer's share of the social security contributions paid to the national pension scheme under Article 70 of the Conditions of Employment of Other Servants.
2. The duty of assistance laid down in Article 24 of the Staff Regulations is concerned with the defence of officials against the acts of third parties and not against the acts of the Administration itself, the review of which is governed by other provisions of the Staff Regulations.
 3. Article 39 of the Conditions of Employment of Other Servants, concerning the severance grant, cannot be interpreted as meaning that, apart from payments made in pursuance of Article 42 thereof, no other amounts may be deducted from the grant. Accordingly, that provision does not prevent the grant paid to an auxiliary servant who has become a temporary servant and who leaves the service of the Communities in that capacity from being reduced by both the amount of the contributions which the person concerned would have had to pay to the Community pension scheme if he had been immediately employed as a temporary servant and the amount of the employer's contributions paid by the institution to the national pension scheme.

JUDGMENT OF THE COURT OF FIRST INSTANCE (Fourth Chamber)

30 June 1992 *

In Case T-25/91,

Pilar Arto Hijos, a former member of the temporary staff of the Council of the European Communities, residing at Jaca (Spain), represented by **Thierry Demaeseure**, of the Brussels Bar, with an address for service in Luxembourg at the office of **Fiduciaire Myson SARL**, 1 Rue Glesener,

applicant,

* Language of the case: French.