Joined Cases 736 and 738 to 780/79

Eric Aranovitch and Others
v
Commission of the European Communities

(No need to give a decision)

Order of the Court (Second Chamber), 10 June 1987 2425

Summary of the Order

Procedure — Action no longer having any purpose as a result of the adoption by the defendant of measures corresponding to those prescribed by a judgment of the Court in a parallel case — No need to give a decision.

ORDER OF THE COURT (Second Chamber)
10 June 1987 *

In Joined Cases 736 and 738 to 780/79

Eric Aranovitch and 43 Others, represented by Marcel Slusny, of the Brussels Bar, with an address for service in Luxembourg at the Chambers of Victor Biel, 18 A, rue des Glacis,

applicants,

v

* Language of the Case: French.

Commission of the European Communities, represented by its Legal Advisers Joseph Griesmar and Jörn Pipkorn and by Daniel Jacob, a member of its Legal Department, acting as Agents, with an address for service in Luxembourg at the office of Georges Kremlis, a member of its Legal Department, Jean Monnet Building, Kirchberg,

defendant,

APPLICATION for a declaration that Council Regulation No 3087/78 adjusting the weighting applicable to the remuneration and pensions of officials and other servants of the European Communities employed or having a home in Italy is void,

THE COURT (Second Chamber),

composed of: T. F. O'Higgins, President of the Chamber, O. Due and K. Bahlmann, Judges,

Advocate General: G. F. Mancini
Registrar: P. Heim

after hearing the views of the Advocate General,

makes the following

Order

1 By application lodged at the Court Registry on 17 October 1979, the applicants, officials of the Commission of the European Communities, brought an action to have declared inapplicable to them Council Regulation No 3087/78 of 21 December 1978 adjusting the weighting applicable to the remuneration and pensions of officials and other servants of the European Communities employed or having a home in Italy (Official Journal L 369, p. 10).

2 The present applications form part of a group of parallel applications (Cases 736 to 780/79) which were received at the Court on the same day. It was subsequently decided that Case 737/79 *Battaglia* would be treated as a test case and that the proceedings in the other cases would be stayed.

3 The Court delivered an interim judgment in Case 737/79 on 15 December 1982 ([1982] ECR 4497) and a final judgment on 15 January 1985 ([1985] ECR 71). In the latter judgment the Court ordered the Commission to pay the costs as it had failed in virtually all its submissions.

4 By order of 26 June 1986 the Court (Second Chamber) decided to join Cases 736 and 738 to 780/79 for the purposes of the written and oral procedure and the judgment.

5 By letter lodged at the Court Registry on 12 January 1987, the Commission confirmed that it had treated the applicants in the present cases in the same way as the applicant in the test case (Case 737/79 *Battaglia*) by paying them default interest at the rate of 6% in compliance with the Court's judgment of 15 January 1985 in the aforementioned case ([1985] ECR 71). The Commission considered that as a result the applications no longer had any purpose and asked the Court to declare, pursuant to Article 69(5) of the Rules of Procedure, that there is no need to give a decision on the applications.

6 By letter lodged at the Court Registry on 26 February 1987, counsel for the applicants informed the Court that he could not discontinue the proceedings because under the terms of the mandate received from his clients he had no authority to do so. He left it for the Court to rule as it thought fit on the proposal that it should declare that there was no need to give a decision on the applications. As regards the costs, he requested the Court to order the Commission to pay them, as it had done in Case 737/79, cited above.

7 It must be observed that the applicants have not disputed the account given by the Commission in its abovementioned letter of 12 January 1987 of the measures taken by it with regard to them. Nor have they denied that, in view of those measures, the applications no longer have any purpose. It must therefore be found that the applications no longer have any purpose and that there is no need to give a decision on them.

Costs

8 Under Article 69 (5) of the Rules of Procedure, where a case does not proceed to judgment the costs are to be at the discretion of the Court. In the present case the decision on costs must follow the Court's decision in that matter in the test Case 737/79 *Battaglia*, cited above. The Commission must therefore be ordered to pay the costs necessarily incurred by the applicants.

On those grounds,

THE COURT (Second Chamber)

hereby orders:

(1) There is no need to give a decision;

(2) The Commission shall bear the costs.

Luxembourg, 10 June 1987.

P. Heim
Registrar

T. F. O'Higgins
President of the Second Chamber