

CR

v

European Commission

Judgment of the General Court (Fifth Chamber) of 2 July 2025

(Civil service – Officials – Retirement pension – Reforms of the Staff Regulations in 2004 and 2014 – Transitional measures relating to certain methods of calculation of pension rights – Article 28 of Annex XIII to the Staff Regulations – Members of contract staff who have become officials – Annual rate of accrual of pension rights – Retirement age – Scope of the law – Equal treatment)

1. Officials – Pensions – Methods of calculation of pension rights – Transitional provisions of Regulation No 1023/2013 – Applicability to staff employed on 31 December 2013 – Limited to staff whose affiliation to the EU pension scheme has been interrupted – Precluded – Breach of the principle of equal treatment by treating staff whose affiliation has been interrupted in the same way as staff whose affiliation has not – No breach

(Art. 13(2) TEU; Staff Regulations of Officials, as amended by Regulation No 1023/2013, recital 29 and Art. 83(2), and Annex XIII, Arts 21, 22 and 28; Conditions of Employment of Other Servants, Art. 1(1) and Annex; Council Regulation No 723/2004)

(see paragraphs 37-42, 44, 45, 108-114)

2. Officials – Pensions – Methods of calculation of pension rights – Transitional provisions of Regulation No 1023/2013 – Applicability to staff employed on 31 December 2013 – Applicability to contract staff who have become officials after that date – Different treatment of such staff compared with contract staff who have maintained that status or become temporary staff – Justification in the light of the objective to preserve the actuarial balance of the EU pension scheme – Whether permissible – Reliance on a practice followed by another institution – Irrelevant

(Arts 310 and 317 TFEU; Staff Regulations of Officials, as amended by Regulation No 1023/2013, Art. 77 and Annex XIII, Arts 21, 22 and 28; Conditions of Employment of Other Servants, Arts 39(1), 83(2) and 109(1), and Annex, Art. 1(1); European Parliament and Council Regulation No 1023/2013, recital 13)

(see paragraphs 47-66, 77-88, 91-104)

3. Actions brought by officials – Pleas in law – Plea alleging breach of the principle of equal treatment – Challenge of transitional rules laid down in order to guarantee an equitable transition from one statutory regime to a new statutory regime – Judicial review – Limits

(see paragraphs 69-73)

Résumé

Hearing an action brought by CR, a former European Commission official, against the decision of that institution setting her retirement pension rights ('the contested decision'), the General Court dismisses that action and provides clarification regarding the application of the transitional measures relating to certain methods of calculation of pension rights provided for in Annex XIII to the Staff Regulations of Officials of the European Union ('the Staff Regulations').

In June 2012, the applicant entered the service of the Commission as a member of the contract staff. In August 2015, she was appointed as an official.

In the intervening period, the reform of the Staff Regulations and the Conditions of Employment of Other Servants of the European Union in 2014 ([1](#)) introduced a new annual pension accrual rate of 1.8%, less favourable than the previous rate of 1.9%, and set the retirement age at 66, compared with previous age of 63.

In May 2023, the European Commission's Office for the Administration and Payment of Individual Entitlements (PMO) adopted the contested decision, applying, inter alia, Article 28 of Annex XIII to the Staff Regulations, relating to the methods of calculating the annual accrual rate of pension rights and the retirement age of contract staff who have become officials. The PMO informed the applicant that she was entitled to a retirement pension from 1 July 2023, at the age of 66. The PMO also informed her that, for her period of service as a member of the contract staff, the annual rate of accrual of her pension rights was 1.9% and that, for her period of service as an official, that annual rate was 1.8%.

In her complaint, which was rejected by the Commission, the applicant claimed that the article at issue was not applicable to her situation, given her continuous affiliation and contribution to the pension scheme of the European Union institutions ('PSEUI'). She requested the PMO to review the contested decision, so that her retirement age be set at the age of 63 and the annual rate of accrual of 1.9% be applied to her for the entire length of her career. Moreover, since she had remained in service until the age of 66 and was of the view that her retirement age should have been set at 63 years, the applicant requested that she be granted a further increase of 2.5% of her final basic salary for each of the years worked beyond the age of 63.

Findings of the Court

In the first place, the Court notes that, in order to determine whether Article 28 of Annex XIII to the Staff Regulations is applicable, it is necessary only that the conditions set out in that article are fulfilled.

Article 28 of Annex XIII to the Staff Regulations lays down two separate and cumulative conditions. The first condition requires the person concerned to have entered into service as a member of staff no later than 1 May 2004 or 1 January 2014, since, on one of those dates, that member of staff had to be under contract. The second condition requires the member of staff to have been appointed as an official after his or her entry into service, since, according to the wording of Article 28 of Annex XIII to the Staff Regulations, that appointment must have taken place 'after' 1 May 2004 or 'after' 1 January 2014.

The limitation of the applicability of that article solely to staff whose affiliation to the PSEUI has been interrupted, as argued by the applicant, is not clearly apparent from Article 28 of Annex XIII to the Staff Regulations. Accepting the applicant's argument would mean limiting the scope of Article 28 of Annex XIII to the Staff Regulations by adding a condition that was not laid down by the EU legislature.

Where the meaning of a provision of EU law is absolutely plain from its very wording, the Courts of the European Union cannot depart from that wording. Consequently, the view that the application of a provision of the Staff Regulations is subject to a condition that is not laid down therein amounts to a *contra legem* interpretation of that provision, with the result that such an interpretation cannot be accepted. The Courts of the European Union do not enjoy, in the light of the principles of institutional balance and allocation of powers, as enshrined in Article 13(2) TEU, the power to derogate from the provisions of the Staff Regulations, such as Article 28 of Annex XIII thereto, by adding a currently non-existent condition.

The Court observes that that conclusion is not invalidated by the case-law of the Court of Justice or by that of the General Court. At no time have those two courts sought to question the choices of the EU legislature and to amend the scope of Article 28 of Annex XIII to the Staff Regulations by exclusively limiting it to temporary or contract staff whose contract was ongoing on 1 May 2004 or 1 January 2014 and whose affiliation to the PSEUI was interrupted before their appointment as officials.

In the second place, regarding compliance with the principle of equal treatment, the Court considers, first, that, in view of its broad discretion, the EU legislature was entitled to consider that officials appointed after 1 May 2004 or after 1 January 2014 had to be given different treatment from that which they would have received if they had retained their status as temporary or contract staff for at least 10 years. The overall impact of the 2004 and 2014 reforms on the EU budget is necessarily greater in the case of the pensions of officials than in the case of the pensions of other staff. That reasoning is in line with the objective of preserving the actuarial balance of the PSEUI, without affecting the acquired rights

and legitimate expectations of existing staff, in addition to the more general objectives of budgetary discipline and consolidation of public finances in a difficult socio-economic environment.

Furthermore, no arbitrary or manifestly inappropriate distinction can be inferred from the provisions of Article 28 of Annex XIII to the Staff Regulations in relation to the objective pursued by the EU legislature of preserving the acquired rights and legitimate expectations of the officials concerned, since, like other members of staff in employment on 1 May 2004 or 1 January 2014, their acquired rights and legitimate expectations are respected.

Second, when examining the comparability of their respective situations, it is irrelevant whether those officials' affiliation to the PSEUI was interrupted before their appointment. That circumstance relates to their period of service as other members of staff, whereas the application of the provisions of Article 28 of Annex XIII to the Staff Regulations depends on their appointment as officials. Therefore, at most, that circumstance will mean in practice that officials whose affiliation and, accordingly, whose payment of contributions to the PSEUI was interrupted before their appointment will complete fewer years of pensionable service, relating to their period of service as other members of staff alone, than if there had not been such an interruption.

(¹) Regulation (EU, Euratom) No 1023/2013 of the European Parliament and of the Council of 22 October 2013 amending the Staff Regulations of Officials of the European Union and the Conditions of Employment of Other Servants of the European Union ([OJ 2013 L 287, p. 15](#)) entered into force on 1 November 2013 and is applicable, as regards the provisions relevant to the present case, from 1 January 2014.