EELA EUROPEAN EMPLOYMENT LAWYERS ASSOCIATION

SUMMARY

ECJ 19 November 2026, Case C|312/25 (EN - v - Court of Justice of the European Union)

EN v Court of Justice of the European Union, European case

Summary

An EU official challenged the deductions from his salary for the Joint Sickness Insurance Scheme, arguing that a Commission decision extending reimbursement for fertility treatment and preservation to certain cases without a medical condition breached Article 72 of the Staff Regulations. On appeal, he argued that the December 2023 salary statement should be open to challenge under Articles 90 and 91 because the deduction required him to finance benefits he considered unlawful and the expanded coverage would, in his view, reduce the funds available to treat illness. He also argued that the inadmissibility ruling undermined legal certainty and effective judicial protection. The ECJ dismissed the appeal because the expanded coverage left his contribution unchanged and he had shown no direct adverse effect on his reimbursement rights. The salary statement therefore did not constitute an act adversely affecting him, and the Court did not rule on the legality of the expanded coverage.

Questions

Did the General Court err in holding that EN's December 2023 salary statement was not an act adversely affecting him under Articles 90 and 91 of the EU Staff Regulations?
Did the alleged impact of the expanded fertility treatment coverage on the funds available for treating illness establish the individual's interest in bringing the action?
Was the General Court correct in law to distinguish between challenges to increases in contributions and challenges to deductions where the contribution remained unchanged?
Did requiring an act adversely affecting the official as a condition of admissibility undermine legal certainty?

Did the inadmissibility ruling infringe the individual's right to effective judicial protection under Article 47 of the EU Charter or Article 6 ECHR?

Ruling

A salary statement is open to challenge if it reflects a decision whose binding legal effects directly and immediately affect the official's interests by materially altering their legal position. The expanded coverage left EN's contribution and payment obligation unchanged. He showed no direct adverse effect on his entitlement to reimbursement for other medical expenses. His objection to funding the additional benefits was insufficient to make the salary statement an act adversely affecting him.
EN had to substantiate the alleged impact on coverage for other medical expenses. Assertions about possible budgetary effects were insufficient.
The argument could not affect the outcome. Even assuming the General Court drew that distinction, it correctly held that EN's salary statement did not constitute an act adversely affecting him.
The requirement to identify an act adversely affecting the official under Articles 90 and 91 was consistent with legal certainty.
The Court assessed the claim under Article 47 of the Charter, which did not alter the admissibility requirements. Since the salary statement was not open to challenge, the right to an effective remedy did not make the action admissible.

Creator: Hof van Justitie van de Europese Unie
Verdict at: 2026-11-19
Case number: ECLI:EU:C:2026:997 / C-312/25