



Decision in case 1885/2017/DR concerning the refusal by the European Investment Bank to pay certain child and family allowances to a staff member

Decision

Case 1885/2017/DR - **Opened on** 07/09/2018 - **Decision on** 13/11/2018 - **Institutions concerned** European Investment Bank (Settled by the institution) | European Investment Bank |

The case concerned the refusal by the European Investment Bank (EIB) to pay certain child and family allowances to a staff member who, after separating from her partner, gained sole custody of their common child.

In the course of the Ombudsman's inquiry into the matter, the EIB decided to pay the complainant the allowances in question.

As the EIB had thus settled the complaint, the Ombudsman closed the case.

Background to the complaint

1. Under the European Investment Bank's (EIB) Staff Rules [1], staff members with children are eligible for the following allowances and benefits: the family allowance [2], the dependent child allowance, the education allowance [3], a tax abatement for a dependent child and travel expenses to the place of origin or centre of interest [4]. Where two staff members are married or in a legal partnership, the EIB's practice is to pay these allowances and benefits to the staff member with the highest salary.
2. The complainant is an EIB staff member who separated from another EIB staff member in January 2017. They have one child.
3. From February 2017, the EIB transferred the payment of the dependent child allowance [5] to the complainant, the child's mother, instead of her former partner [6].
4. In July 2017, a Luxembourgish court granted full custody of the child to the complainant.
5. Following this, the complainant asked the EIB to pay to her, instead of her partner, the family allowance and the allowance for travel to the centre of interests. She also requested that it grant her the tax abatement for a dependent child.
6. The EIB refused to do so. It explained that it could transfer to the complainant "*only those entitlements directly depending on the custody (...) of the child*", that is the dependent child



allowance and the education allowance. The family allowance, the centre of interest allowance and the tax abatement continue to be paid to the parent receiving the highest basic monthly salary [7] .

7. Dissatisfied with the EIB's decision, the complainant turned to the Ombudsman in October 2017.

The inquiry

8. The Ombudsman opened an inquiry into the EIB's refusal to pay to the complainant all the allowances linked to her child.

9. In December 2017, while the inquiry was underway, the complainant initiated a conciliation procedure with the EIB [8] , [9] . As the procedure appeared to be still ongoing in September 2018, the Ombudsman contacted the EIB and asked it to inform the complainant about the outcome, which it subsequently did later that month.

10. The outcome of the conciliation procedure was that the EIB agreed that the complainant was eligible for the family allowance and to pay this retroactively. The EIB decided that the complainant was also entitled to benefit from the tax abatement for a dependent child and to receive the allowance for travel to her centre of interest.

The Ombudsman's assessment

11. By agreeing to pay the complainant the allowances in question, the Ombudsman considers that **the EIB has settled this complaint** .

Conclusion

Based on the inquiry, the Ombudsman closes this case with the following conclusion :

The European Investment Bank has settled the complaint.

The complainant and the EIB will be informed of this decision.

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Head of Inquiries - Unit 3

Strasbourg, 13/11/2018

[1] The EIB's Staff Rules are a set of provisions implementing the EIB Staff Regulations .

[2] The family allowance is equivalent to the 'household allowance' provided for under the EU Staff Regulations. It is granted to staff who are married (or in a registered partnership) and/or have children.

[3] The education allowance for dependent children is paid from primary school until



completion of university studies.

[4] The EIB pays an annual flat-rate allowance to staff members whose centre of interest is situated 50km or more from their place of employment. This allowance covers the travel expenses of the staff member, their children and of their spouse/legal partner, where they are not a staff member of the EIB or of another international organisation.

[5] Because of the age of the child (less than 6 years old), the mother would not yet be eligible for the education allowance.

[6] This decision was based on the Luxembourgish law that gives automatic full custody to the mother when a registered partnership ends.

[7] This position was based on Article 2.2 of the EIB's Staff Rules. Article 2.2.1 ('Family allowance') of the said rules provide that:

" The following members of staff shall be entitled to family allowance (...):

(a) married employees;

(b) employees who are legally separated or divorced and who are obliged by a court order to provide chief maintenance;

(c) employees who are unmarried, legally separated, divorced or widowed, where they are entitled to dependent child allowance (see 2.2.3.). (...)

Where both spouses are Bank employees, the allowance shall be paid to the spouse with the higher monthly basic salary".

[8] Article 41 of the EIB's Staff Regulations provides for a conciliation procedure as an internal remedy for disputes concerning staff issues, aimed at seeking an amicable settlement between the staff member and the EIB.

[9] The complainant asked the Ombudsman to postpone dealing with her complaint until this procedure was finalised.