

Form of order sought

The applicant claims that the Court should:

- annul the decision of the European Commission of 18 December 2013 in State aid case SA.33995 (2013/C) — Support for renewable electricity and reduced EEG-surcharge for energy-intensive users;
- order the defendant to pay the costs of the proceedings.

Pleas in law and main arguments

In support of the action, the applicant relies on three pleas in law.

1. First plea in law: Infringement of Article 107(1) TFEU

- The applicant claims that the contested decision infringes Article 107(1) TFEU because the EEG-surcharge provided for in the Gesetz für den Vorrang erneuerbarer Energien (Law for the priority of renewable energy sources, hereinafter referred to as EEG) and the special compensation regime did not constitute an allocation of State or State-controlled resources. All the facts relevant to the qualification of those measures were determined in the preliminary proceedings between the Commission and the Federal Republic of Germany. There were no longer any doubts, which the Commission should have found in a proceeding pursuant to Article 108(2) TFEU and Article 4(4) of Regulation (EC) No 659/1999 laying down detailed rules for the application of Article 93 of the EC Treaty.⁽¹⁾

2. Second plea in law: Infringement of Article 108(1) TFEU and the principle of legal certainty

- The applicant submits in that regard that the Commission infringed Article 108(1) TFEU and the principle of legal certainty by applying the procedure for new aid pursuant to Article 4(4) of Regulation No 659/1999 instead of the procedure for existing aid pursuant to Article 17 et seq. of Regulation No 659/1999 in order to review its provisional assessment of the EEG as aid. In that regard, the applicant observes in particular that, by decision of 22 May 2002, the Commission did not classify the 2000 EEG as aid within the meaning of Article 107(1) TFEU because there was no transfer of State resources. The changes from the 2000 EEG to the 2012 EEG were not substantial in comparison to the Commission decision of 22 May 2002. The Commission, therefore, could have asserted an amended legal opinion in a proceeding pursuant to Article 108(1) TFEU without impacting on the applicant.

3. Third plea in law: Infringement of Article 41 of the Charter of Fundamental Rights and the principle of audi alteram partem

- The applicant also claims that the defendant adopted the contested decision without previously giving the applicant the opportunity to provide comments.

⁽¹⁾ Council Regulation (EC) No 659/1999 of 22 March 1999 laying down detailed rules for the application of Article 93 of the EC Treaty, OJ 1999 L 83, p. 1.

Appeal brought on 22 April 2014 by Jean-Pierre Bodson and Others against the judgment of the Civil Service Tribunal of 12 February 2014 in Case F-73/12, Bodson and Others v EIB

(Case T-240/14 P)

(2014/C 223/22)

Language of the case: French

Parties

Appellants: Jean-Pierre Bodson (Luxembourg, Luxembourg); Dalila Bundy (Cosnes-et-Romain, France); Didier Dulieu (Roussy-le-Village, France); Marie-Christel Heger (Nospelt, Luxembourg); Evangelos Kourgias (Senningerberg, Luxembourg); Manuel Sutil (Luxembourg); Patrick Vanhoudt (Gonderange, Luxembourg); and Henry von Blumenthal (Bergem, Luxembourg) (represented by L. Levi, lawyer)

Other party to the proceedings: European Investment Bank

Form of order sought by the appellants

The appellants claim that the General Court should:

- annul the judgment of the European Union Civil Service Tribunal of 12 February 2014 in Case F-73/12;
- consequently, uphold the forms of order sought by the appellants at first instance and, accordingly,
 - annul the decisions to apply to the applicants the decision of the EIB's Board of Directors of 13 December 2011 setting a salary progression capped at 2,8 % and the decision of the EIB's Management Committee of 14 February 2012 establishing a merit grid entailing the loss of 1 % of salary, decisions that are contained in the salary slips of April 2012, and annul to the same extent all the decisions contained in subsequent salary slips;
 - accordingly,
 - order the defendant to pay the difference between the remuneration resulting from the aforementioned decisions of the EIB's Board of Directors of 13 December 2011 and of the EIB's Management Committee of 14 February 2012 and that paid in application of the preceding salary scheme, with interest on arrears to be added to that difference in remuneration with effect from 12 April 2012 and then on the 12th day of every month until full payment, the rate of interest being the ECB rate, increased by three percentage points;
 - order the defendant to pay damages for the loss suffered by reason of the loss of purchasing power, such loss being assessed equitably, and on a provisional basis, at 1,5 % of the monthly remuneration of each applicant;
 - order the EIB to pay all the costs;
- order the defendant to pay all the costs of both sets of proceedings.

Pleas in law and main arguments

In support of the appeal, the appellants rely on four pleas in law.

1. First plea in law, alleging that the difference in character between a contractual employment relationship and an employment relationship governed by the Staff Regulations was not observed, an infringement of the fundamental conditions of the employment relationship and that the Memorandum of Understanding was not accorded the correct treatment in law.
2. Second plea in law, alleging a contradiction in the judgment of the Civil Service Tribunal and distortion of the information in the file.
3. Third plea in law, alleging infringement of the principles of legal certainty, of non-retroactivity and of foreseeability, and distortion of the information in the file.
4. Fourth plea in law, alleging that the Tribunal failed to correctly exercise its power of review as regards the manifest error of assessment and infringement of the obligation to state reasons.

Appeal brought on 22 April 2014 by Jean-Pierre Bodson and Others against the judgment of the Civil Service Tribunal of 12 February 2014 in Case F-83/12, Bodson and Others v EIB

(Case T-241/14 P)

(2014/C 223/23)

Language of the case: French

Parties

Appellants: Jean-Pierre Bodson (Luxembourg, Luxembourg); Dalila Bundy (Cosnes-et-Romain, France); Didier Dulieu (Roussy-le-Village, France); Marie-Christel Heger (Nospelt, Luxembourg); Evangelos Kourgias (Senningerberg, Luxembourg); Manuel Sutil (Luxembourg); Patrick Vanhoudt (Gonderange, Luxembourg); and Henry von Blumenthal (Bergem, Luxembourg) (represented by L. Levi, lawyer)