

- Regarding the powers of the Head of Mission to adopt decisions relating to the redeployment of the staff and the role of the Member State of origin in the framework of the transfer of the seconded staff, the appellant claims an infringement of Article 61, paragraph II, of the Statute of the Court of Justice insofar as the judge at first instance did not comply with the ruling in the case referred back by the European Court of Justice.
- Distortion of evidence
- Infringement of the right of defence and equal treatment, insofar as the appellant was not heard with regard to some documents and written observations submitted by the Council during the procedure at first instance.
- Infringement of Article 134(1) of the Rules of Procedure insofar as it is stated that the appellant will bear the costs in case C-455/14 P, in which she succeeded.

⁽¹⁾ OJ 2009, L 322, p. 22.

Appeal brought on 26 June 2018 by European Citizens' Initiative One of Us against the judgment of the General Court (Second Chamber, Extended Composition) delivered on 23 April 2018 in Case T-561/14: European Citizens' Initiative One of Us and others v European Commission

(Case C-418/18 P)

(2018/C 341/06)

Language of the case: English

Parties

Appellant: European Citizens' Initiative One of Us (represented by: P. Diamond, Barrister, R. Kiska, Solicitor)

Other parties to the proceedings: Republic of Poland, European Commission, European Parliament, Council of the European Union

Form of order sought

The appellant claims that the Court should:

- set aside the judgment of the General Court of 23 April 2018 in Case T-561/14;
- annul the Commission Communication COM(2014) 355 Final of 28 May 2014;
- order the Commission to pay the costs of the procedure for the appeal and the costs for the procedure of the hearing at first instance.

Pleas in law and main arguments

First, the General Court misapplied Article 117 TEU in the light of Article 11(4) TEU, Article 24 TFEU and Regulation 211/2011 ⁽¹⁾; any discretion of the Commission must be consistent with the objectives of the ECI. The General Court's ruling has failed to take into consideration the legislative intent of the Regulation; and has consequently made it dead letter.

Second, the General Court erred in not finding that Commission Communication COM(2014) 355 final ⁽²⁾ does not set out its legal and political conclusions separately as required by Regulation (EU) No 211/2011.

Third, the General Court failed to review Commission Communication COM(2014) 355 final with the correct level of scrutiny required. The General Court applied a test of limited review; namely of manifest error.

Fourth, in any event, if the level of review as applied by the General Court is the correct legal test (which is not accepted), the General Court failed to hold that the reasons provided by the Commission in Commission Communication COM(2014) 355 final satisfied the test of manifest error; inter alia the Commission has failed to apply correctly Case C-34/10 *Oliver Brüstle v Greenpeace e.V.*; failed to consider the implications of the 'triple lock' system, which provides no ethical safeguards (and, in fact, provides incentives for Member States to lower their own ethical safeguards in order to access research funds). The Commission further manifestly erred in suggesting that offering access to abortion is an international obligation streaming from the ICPD Programme of Action in 1994 and the UN Millennium Development Goals; it has further erred in its illogical proposition that the financing of organizations promoting and practising abortion in developing countries would be beneficial to maternal health, as opposed to increasing funds towards the grossly understaffed and undersupplied health systems within these nations.

Fifth, the General Court erred in the mischaracterizing of the ECI, namely as one for the introduction of three specific legislative proposals, rather than one for the protection of the dignity of the embryo. Thus, the General Court failed to correctly approach the issues in the case.

⁽¹⁾ Regulation (EU) No 211/2011 of the European Parliament and of the Council of 16 February 2011 on the citizens' initiative (OJ 2011, L 65, p. 1).

⁽²⁾ Communication from the Commission on the European Citizens' Initiative 'One of us'.

Appeal brought on 26 June 2018 by the European External Action Service against the judgment of the General Court (Fifth Chamber) delivered on 13 April 2018 in Case T-119/17, *Alba Aguilera v EEAS*

(Case C-427/18 P)

(2018/C 341/07)

Language of the case: French

Parties

Appellant: European External Action Service (represented by: S. Marquardt and R. Spac, acting as Agents, M. Troncoso Ferrer, abogado, F.-M. Hilaire, avocat, S. Moya Izquierdo, abogada)

Other parties to the proceedings: Ruben Alba Aguilera, Simone Barengi, Massimo Bonannini, Antonio Capone, Stéphanie Carette, Alejo Carrasco Garcia, Francisco Carreras Sequeros, Carl Daspect, Nathalie Devos, Jean-Baptiste Fauvel, Paula Cristina Fernandes, Stephan Fox, Birgitte Hagelund, Chantal Hebberecht, Karin Kaup-Laponin, Terhi Lehtinen, Sandrine Marot, David Mogollon, Clara Molera Gui, Daniele Morbin, Charlotte Onraet, Augusto Piccagli, Gary Quince, Pierre-Luc Vanhaeverbeke, Tamara Vleminckx, Birgit Vleugels, Robert Wade, Luca Zampetti

Form of order sought

The appellant claims that the Court should:

- declare the appeal admissible and well founded;
- consequently, set aside the General Court's judgment of 13 April 2018 in Case T-119/17;
- grant the form of order sought by the EEAS at first instance;
- order the other parties to the proceedings to pay the costs and expenses incurred in the various proceedings.

Grounds of appeal and main arguments

The first ground of appeal alleges an error of law in the General Court's interpretation of Article 1 of Annex X to the Staff Regulations. According to the General Court, that provision imposes an obligation to adopt general implementing provisions (GIPs) in accordance with Article 110 of the Staff Regulations which applies to the whole of Annex X to the Staff Regulations, and in particular Article 10 thereof (paragraphs 30 and 31 of the judgment under appeal). The legislature, however, expressly formulated, in Annex X, an obligation to adopt GIPs only in Article 3. By contrast, in other provisions, such as the second paragraph of Article 2, Article 5(2), the first paragraph of Article 8, and Articles 10 and 21, that legislature has provided only for 'conditions' or 'implementing rules' adopted by the appointing authority.