

Pleas in law and main arguments

The applicant contests the European Air Safety Agency's (EASA) decision to reject his candidature for the post of Executive Director and to appoint another person to that post.

He points out the fact that the information which he and his lawyers have obtained following their request is fragmentary and has not allowed the applicant a clear and transparent view of the procedure followed.

In support of his claims, he asserts;

- Breach of the duty to state reasons and of the duty to have regard for the welfare and/or interests of officials and of the principle of sound administration;
- Lack of information, from which it can be objectively and legitimately assumed that the principles of impartiality, objectivity and non-discrimination have not been observed, and breach of the procedural rules and the vacancy notice;
- Disregard of the interests of the service and breach of Article 12 of the Conditions of Employment of Other Servants of the European Communities, in so far as it is clear from a comparison of the merits of the person appointed, based on the brief biography transmitted by the Commission, and of those of the applicant, that the applicant's merits are manifestly superior.

Action brought on 2 February 2004 by Roderich Weißenfels against European Parliament

(Case T-33/04)

(2004/C 94/129)

(Language of the case: German)

An action against the European Parliament was brought before the Court of First Instance of the European Communities on 2 February 2004 by Roderich Weißenfels, residing in Bereldingen (Luxembourg), represented by H. Arend, lawyer, with an address for service in Luxembourg.

The applicant claims that the Court should:

- annul the defendant's decision of 26 June 2003 deducting payments made for the benefit of his son from other sources from the double child allowance payable to the applicant under Article 67(3) of the Staff Regulations, together with the defendant's decision of 10 November 2003 on the complaint in the same matter;
- order the defendant to pay to the applicant all amounts improperly withheld from his remuneration together with interest at the rate prescribed by law;
- order the defendant to pay the costs and all the essential expenses incurred by the applicant.

Pleas in law and main arguments:

For some years, the applicant has received a double child allowance under Article 67(3) of the Staff Regulations. Since December 1998, the applicant's severely disabled son has been receiving monthly disability assistance payments from a Luxembourg fund. In 1999, the applicant notified these payments as a precaution. As a result, the amount of the payments from the fund, which regularly exceeded the double child allowance, was deducted from these family allowances, repayment was demanded of past sums paid since the award of the special assistance by the Luxembourg fund, and family allowances which would otherwise have been due thereafter were subsequently not paid.

The applicant claims that the conditions under which a deduction may be made under Article 67(2) of the Staff Regulations have not been met. According to the definition in Article 67(3), the double child allowance is to be paid in order to relieve the financial burden on an official who, because his child is severely handicapped, is involved in 'heavy expenditure'. By contrast, the fund defines payments made by it as 'special assistance for severely disabled persons'. They are separate payments, which are awarded to the handicapped child itself, rather than to the applicant, even though the money is paid to the child's legal representative because the person entitled to it is a minor. The payments are thus neither 'allowances', nor are they 'of like nature'. Their deduction under Article 67(2) of the Staff Regulations is therefore unlawful. Furthermore, the deductions were, from the start, made contrary to the better legal view.

Action brought on 30 January 2004 by Athinaiki Oikogeniaki Artopoiia A.V.E.E. (S.A.) against the Office for Harmonisation in the Internal Market (Trade Marks and Designs) (OHIM)

(Case T-35/04)

(2004/C 94/130)

(Language of the case: to be determined pursuant to article 131(2) of the Rules of Procedure language in which the case was submitted: English)

An action against the Office for Harmonisation in the Internal Market (Trade Marks and Designs) (OHIM) was brought before the Court of First Instance of the European Communities on 30 January 2004 by Athinaiki Oikogeniaki Artopoiia A.V.E.E. (S.A.), Pikermi, Attica, Greece, represented by Dr C. Christanthis, lawyer.

Ferrero oHG mbH was also a party to the proceedings before the Board of Appeal.

The applicant claims that the Court should:

- Annul the contested decision and / or alter it accordingly so that the intervener's opposition be dismissed and the relevant CTM No. 1 010 099 application for registration effectively be accepted,