

The applicant claims that the Court should:

- annul the decision of the appointing authority rejecting his request;
- order the Commission to pay the costs.

Pleas in law and main arguments

This action was brought by the applicant as a result of the fact that, on 1 April 2003, he submitted a request to the Commission in the following terms: (a) if a medical report drawn up by Dr M.P. Simonnet on the occasion of the medical check up which the Commission required him to undergo on 20 June 2002 exists, to have a certified copy thereof sent to him or to a doctor designated by him and, in the latter case, that he should be informed thereof in writing; (b) if the medical report does not exist, to be informed of that fact in writing; (c) if there is any reason to deny the requests at (a) and (b) above, to be informed thereof in writing.

Following the implied rejection of the request, the applicant brought the present action.

In support of his arguments, the applicant puts forward the following pleas in law:

Breach of the law inasmuch as the official is entitled to have access to all data relating to him drawn up by agents of the defendant in the course of their duties and in their possession, and thus including the medical report.

Breach of the applicant's right to health, in particular to his physical and mental health and of the institution's duty to have regard for his welfare.

Breach of the obligation to provide reasons for decisions, as provided for in Article 25 of the Staff Regulations.

Breach of the duty to have regard to the welfare of officials, inasmuch as the defendant had not the slightest regard for the interest of the applicant to have access to the medical report, or at least for such a report to be transmitted to a doctor of his choice, in particular in light of the fact that it is impossible to discern what interest of the service the defendant sought to protect, quod non, by its rejection of the request and of the complaint.

Action brought on 17 May 2004 by Daniel Van der Spree against Commission of the European Communities

(Case T-182/04)

(2004/C 179/35)

(Language of the case: French)

An action against the Commission of the European Communities was brought before the Court of First Instance of the

European Communities on 17 May 2004 by Daniel Van der Spree, residing at Overijse (Belgium), represented by S. Orlandi, A. Coolen, J.-N. Louis and E. Marchal, lawyers, with an address for service in Luxembourg.

The applicant claims that the Court should:

- Annul the decision establishing finally the applicant's career development review covering the period from 1 July 2001 to 31 December 2002;
- Order the defendant to pay the costs.

Pleas in law and main arguments:

In support of his action, the applicant pleads, first, breach of Articles 26 and 43 of the Staff Regulations and of the special measures applicable to the 2001-2002 transitional appraisal exercise. The applicant also pleads breach of the duty to state reasons, inconsistency between the comments and the marks awarded and manifest error of assessment. The applicant relies, further, on infringement of the rights of the defence in that the decision was based on an internal audit report of which the applicant was not given notice and on alleged appraisal criteria of which, the applicant submits, he was not informed.

Action brought on 7 June 2004 by Microsoft Corporation against the Commission of the European Communities

(Case T-201/04)

(2004/C 179/36)

(Language of the case: English)

An action against the Commission of the European Communities was brought before the Court of First Instance of the European Communities on 7 June 2004 by Microsoft Corporation, Washington (USA), represented by I. S. Forrester, QC, and J.-F. Bellis, lawyer.

The applicant claims that the Court should:

- annul the Commission Decision of 24 March 2004, or, in the alternative, annul or substantially reduce the fine imposed;
- order the Commission to bear the costs.