

Action brought on 14 January 2005 by Carmela Lo Giudice against Commission of the European Communities

(Case T-27/05)

(2005/C 82/71)

(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 14 January 2005 by Carmela Lo Giudice, residing in Strombeek-Bever (Belgium), represented by F. Frabetti and G. Bounéou, lawyers, with an address for service in Luxembourg.

The applicant claims that the Court should:

1. annul the appraisal exercise for the year 2003 (the period from 01.01.2003 to 31.12.2003);
2. if not, annul the decision of 4 May 2004 which closed the applicant's career development report (CDR) for the period from 1 January 2003 to 31 December 2003;
3. decide on the costs, expenses and fees and order the Commission of the European Communities to pay them.

Pleas in law and main arguments

The applicant, a Commission official, was on sick leave from 1 December 2003 to 10 May 2004. During that period the Commission established her career development report without her participation in it.

In support of her action, the applicant first of all claims that the creation, as part of the new system of establishing career development reports, of computer files directly completed on the screen and stored in the computer staff management system, is equivalent to the creation of parallel files in breach of Article 26 of the Staff Regulations.

The applicant also claims that the lack of any participation by her in the establishment of the report infringes Article 43 of the Staff Regulations, the General Provisions for implementing that article, as well as the principles of sound administration, non-discrimination and prohibition of arbitrary procedures. In the same context, the applicant pleads abuse of power, failure to state reasons, infringement of the principle of the protection of legitimate expectations and of the rule 'Patere legem quam ipse fecisti' (obey the rules which you yourself have made), as well as breach of the duty to have regard to the welfare of officials.

Action brought on 17 January 2005 by Ekabe International SCA against the Office for Harmonisation in the Internal Market

(Case T-28/05)

(2005/C 82/72)

(Language in which the application was submitted: French)

An action against the Office for Harmonisation in the Internal Market (OHIM) was brought before the Court of First Instance of the European Communities on 17 January 2005 by Ekabe International SCA, established in Luxembourg, represented by Charles de Haas, lawyer.

Puleva SA was also a party to the proceedings before the Fourth Board of Appeal.

The applicant claims that the Court should:

- annul and alter the decision of the Fourth Board of Appeal in so far as it confirmed the rejection of the application for Community trade mark OMEGA 3 No 824 573 following Opposition No B 148 132;
- order OHIM to pay all the costs.

Pleas in law and main arguments:

Applicant for Community trade mark:

CEMA. The mark was transferred to Primalliance and subsequently to Ekabe International.

Community trade mark concerned:

Figurative mark 'OMEGA 3' for goods in Class 29 (margarine) — application No 824 573