

Pleas in law and main arguments

The applicant was awarded a contract by the Commission relating to the project 'e-Content Exposure and Business Opportunities' (eEBO). Some of the work for this contract was subcontracted by the applicant, even though subcontracting was not allowed. A technical verification was executed by the Commission and clarifications were requested on certain issues relating to the personnel used by the applicant. Following this evaluation, the Commission adopted the decision contested in the present case.

In support of its application, the applicant submits that the Commission made an evident error of assessment in that it failed to take into account that the eEBO-project was dependent on another e-content project, namely PICK, and that the contractor for the PICK project did not respect its obligations. The applicant also claims that the Commission erred in terminating the project as a whole.

Furthermore, the applicant submits that the Commission infringed the principles of good administration and transparency and did not eliminate certain conflicts of interest. According to the applicant, the Commission failed to act when the applicant indicated that, allegedly, the source of the malfunctioning of the project were the personnel relations between specific Commission officials and the two experts to which the applicant subcontracted part of the work.

Action brought on 27 May 2005 by Jean-Marc Colombani against the Commission of the European Communities

(Case T-206/05)

(2005/C 193/59)

(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 27 May 2005 by Jean-Marc Colombani, residing in Brussels, represented by Stéphane Rodrigues and Alice Jaume, lawyers.

The applicant claims that the Court should:

- annul the decision of the Commission of 7 March 2005 and the resulting measures concerning the applicant's remuneration;

- take all necessary measures to safeguard the applicant's rights and interests, in particular as regards the minimum subsistence amount which he should be granted in terms of remuneration;
- order the defendant to pay damages in the sum of EUR 10 002;
- order the defendant to pay all the costs.

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The applicant, an official of the Commission, took leave on personal grounds until 31 August 2004. Having made a request to return to work at the end of his leave, he was reinstated in DG RELEX by decision of 28 September 2004. However, it was not specified to which precise position he would be assigned, that decision providing that he would be informed of that at a later stage.

By note of 7 March 2005, the administration informed the applicant that he had been absent without leave since 5 October 2004 and that the appropriate measures would be taken against him. He did not receive his salary for April and his pay slip stated that he owed the Commission the amount he had received by way of salary from October 2004.

By his action, the applicant contests the note of 7 March 2005 and the resulting measures. He pleads infringement of the rights of the defence, claiming that he was not able to defend his interests before the contested decisions were adopted. He also pleads infringement of the obligation to state reasons and that manifest errors of assessment were made. More particularly, he maintains that that he was never informed that he had been assigned to the unit RELEX/C.1. He further contests the claim that he did not respond to an offer of employment.

The applicant then pleads infringement of Article 40 of the Staff Regulations, which, in his view, allows him to turn down the first offer of employment. He also pleads infringement of Article 60 of the Staff Regulations, on the ground that his alleged absence was not duly established and was not initially deducted from his annual leave. The applicant further claims that Annexes VIII and IX to the Staff Regulations ensuring that he is paid the minimum subsistence amount were infringed. Finally, he pleads infringement of the principles of sound administration and the duty to have regard to the interests of officials.

In addition to the annulment of the contested measures, the applicant seeks compensation for the material and non-material damages which he allegedly suffered.
