

Pleas in law and main arguments

The applicant is a corporate body *inter alia* responsible for the continued testing and further research and development regarding an alternative cement product known as energetically modified cement. The applicant introduced a complaint before the Commission under Regulation 17/62, accusing the European producers of Portland cement (the type of cement which is predominant in the European market) of a series of behaviours constituting serious violations of Article 81 EC. More specifically, the complaint concerned the EN 197-1 standard, adopted in the context of directive 89/106 ⁽¹⁾. According to the applicant, this standard was purposefully designed to favour existing major players in the market to the exclusion of other cement producers or market challenging products and technologies. This was allegedly achieved through close cooperation between the technical sub-committee of the European Committee for standardisation and CEMBUREAU, the duly appointed trade association of European cement producers, the vast majority of whose members are well established Portland cement producers.

The applicant now challenges the decision rejecting its complaint. It alleges that the offending standard amounts to a horizontal cooperation agreement in violation of Article 81 EC. In the alternative, the applicant contends that the standard breaches the aims of Articles 28 and 29 EC and cannot, in any event, be justified at a Member State level under Article 30 EC.

⁽¹⁾ Council Directive 89/106 of 21 December 1998 on the approximation of laws, regulations and administrative provisions of the Member States relating to Construction products, OJ L 40 11.12.1989, p.12

Action brought on 18 November 2005 — Sanchez Ferriz v Commission

(Case T-433/05)

(2006/C 36/73)

Language of the case: French

Parties

Applicant: Carlos Sanchez Ferriz (Brussels, Belgium) (represented by: F. Frabetti, lawyer)

Defendant: Commission of the European Communities

Form of order sought

The applicant claims that the Court should:

- Annul the list of officials promoted under the 2004 exercise ⁽¹⁾, insofar as that list does not include his name, and,

as an incidental plea, the preparatory measures for that decision;

- Annul the allocation of promotion points during the 2004 exercise, in particular, following the recommendations of the promotion committees;
- Order the Commission of the European Communities to pay the costs.

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The applicant, a Commission official, challenges the decision not to promote him during the 2004 exercise. In support of his action, he submits that the definitive version of his career development report for the period from 1 July 2001 to 31 December 2002 had not been compiled by the time the contested decision was adopted. In addition, he is of the opinion that when allocating 'priority points' to officials for the purpose of their classification with a view to promotion, the Commission gave excessive weight to the 'remainder' of the officials who, although they had reached the promotion threshold, had not been promoted during the earlier exercises. The applicant also levels a more general criticism against the allocation of points which, he states, fails to comply with the requirement to carry out a comparative examination of merits for the purpose of promotion.

On that basis, the applicant alleges infringement of Article 45 of the Staff Regulations, and of the General Implementing Provisions and the Commission's Administrative Guide for assessment and promotion, infringement of the principle of non-discrimination, infringement of the principle of prohibition against arbitrary treatment, infringement of the duty to give reasons, infringement of the principle of the protection of legitimate expectations and infringement of the duty to have regard for the interests of officials.

⁽¹⁾ List published in Administrative Notice No 130 - of 30.11.2004

Order of the Court of First Instance of 17 November 2005 — Grijseels and Lopez Garcia v European Economic and Social Committee

(Case T-162/05) ⁽¹⁾

(2006/C 36/74)

Language of the case: French

The President of the Fourth Chamber has ordered that the case be removed from the register.

⁽¹⁾ OJ C 171, 9.7.2005.