

## EUROPEAN UNION CIVIL SERVICE TRIBUNAL

**Action brought on 16 December 2005 — A v Commission**

(Case F-124/05)

(2006/C 86/86)

(Language of the case: French)

**Parties**

*Applicant:* A (Port-Vendres, France) (represented by: B. Cambier and L. Cambier, lawyers)

*Defendant:* Commission of the European Communities

**Form of order sought**

The applicant claims that the Court should:

- annul the defendant's decision of 28 February 2005 rejecting the request submitted by the applicant on 22 October 2004 on the basis of Article 90(1) of the Staff Regulations of officials of the European Communities, and seeking the conclusion of the disciplinary proceedings brought against him by a decision of 16 January 2004;
- annul the defendant's decision of 26 September 2005 dismissing the applicant's complaint submitted on 20 May 2005 on the basis of Article 90(2) of the Staff Regulations, and seeking the reversal of the abovementioned decision of 28 February 2005;
- rule that the abovementioned request of the applicant of 22 October 2004 is admissible and well-founded;
- order the defendant to pay the applicant and his family the provisional sum of EUR 1 581 801, which corresponds to half of the loss caused by the decision to set in motion and continue the disciplinary proceedings brought against the applicant, the other half of which is to be specified with the assistance of an expert;
- order the defendant to pay 8 % interest on all of the sums above, and to do so as from 23 November 1999, the date of the conclusion of the first report of the internal investigation carried out by the European Anti-Fraud Office (OLAF) in which the first signs of prejudice towards the applicant are shown, or, alternatively, as from 16 January 2004, the date on which the Appointing Authority decided to initiate disciplinary proceedings against the applicant;

— designate an expert;

— order the Commission of the European Communities to pay the costs.

**Pleas in law and main arguments**

In support of his action, the applicant advances six pleas.

In the first, he claims that the disciplinary proceedings at issue were set in motion exclusively on account of the criminal proceedings introduced against him, which were settled by a final decision that there was no need to rule on the matter, given by the Brussels *Chambre du Conseil* (the court sitting in chambers) on 30 June 2004. The disciplinary proceedings, in his view, should therefore be treated in the same way.

In the second plea, the applicant invokes the authority of *res judicata* with respect to the abovementioned decision that there was no need to rule on the matter, against which the defendant did not lodge an appeal.

In the alternative, should it be held that the Appointing Authority can take further steps in the disciplinary proceedings based on facts judged once and for all by the Brussels *Chambre du Conseil* not to be proven, the applicant submits, in his third plea, that the contested decisions wrongly link the outcome of the proceedings brought against him with the outcome of the proceedings taking place against Ms Cresson.

Subsequently, in the fourth and fifth pleas, the applicant argues that the charges against him are wrong and that the Appointing Authority has infringed the duty to have regard for the interests of officials laid down in Article 24 of the Staff Regulations and the principle of the protection of legitimate expectations, in so far as it has not done everything within its power to understand the true course of events.

Lastly, in his final plea, the applicant submits that, in any event, the reasonable period within which the Appointing Authority should have taken a decision expired a long time ago, as the facts date from the years 1995-1996.

Regarding the application for compensation, the applicant claims that the defendant's misconduct is at the root of his nervous breakdown which forced him to end his career as an official prematurely. That event has caused him and his family material and non-material damage.