

- aside from other considerations, in the case in question, the unacceptable delay in communicating the decision can in no way be imputed to the appellant. On this point, too, the Tribunal failed to carry out an adequate evaluation — even in terms of procedural correctness — of the contentions of the defendant concerning the difficulty of identifying the official's place of residence.
- that, notwithstanding the fact that at the time of bringing the action the appellant had already retired, he had an interest in bringing proceedings to establish the unlawfulness of the transfer in question and he continues to possess such an interest, in that his application for compensation for non-material and professional damage is predicated upon establishing the unlawfulness of the contested measure.

**Appeal brought on 29 December 2006 by De Smedt against the judgment of the Civil Service Tribunal delivered on 19 October 2006 in Case F-59/05, De Smedt v Commission**

(Case T-415/06 P)

(2007/C 42/75)

*Language of the case: French*

**Parties**

*Appellant:* Elisabeth de Smedt (Wezembeek-Oppem, Belgium) (represented by L. Vogel and R. Kechiche, lawyers)

*Other party to the proceedings:* Commission of the European Communities

**Form of order sought by the appellant**

- annulment in full of the judgment under appeal, delivered in 19 October 2006 by the Second Chamber of the Civil Service Tribunal, notified by registered letter of 19 October 2006, by which the action brought by the appellant on 8 July 2005 was dismissed;
- grant to the appellant the forms of order sought in the action brought by her on 8 July 2005;
- order the defendant and the intervener to pay the costs of the action pursuant to Article 87(2) of the Rules of Procedure, including the expenses necessarily incurred for the purposes of the proceedings, and, in particular, the costs of having an address for service, travel and accommodation expenses and lawyers' fees, pursuant to Article 91(b) of the Rules of Procedure.

**Pleas in law and main arguments**

By judgment of 19 October 2006, the annulment of which is sought by this appeal, the Civil Service Tribunal dismissed the action brought by the appellant seeking, first, annulment of the

decision of the Commission of 21 March 2005 fixing the classification and remuneration of the applicant, who was previously an auxiliary agent recruited as a contractual agent, and, secondly, payment of damages.

In support of her application for the annulment of that judgment, the appellant puts forward two grounds of appeal, the first of which is based on infringement of Article 80(3) of the Conditions of Employment of other servants of the Communities (CEOS) <sup>(1)</sup>, together with a manifest error of assessment. The appellant argues that, in rejecting the first plea in law under her original application on the ground that the Commission was obliged to follow a timescale laid down in terms of Regulation No 723/2004 <sup>(2)</sup>, for the replacement of the former temporary staff status by the new contractual agent status, the Civil Service Tribunal allowed the Commission to disregard all preliminary procedures relating to the recruitment of contractual agents, in breach of Article 80(3) of the CEOS.

The second ground of appeal is based on infringement of the principle of non-discrimination, a failure to state adequate reasons and a failure to address the appellant's written pleadings in rejecting the second plea in law of her initial application, which was founded on the discriminatory situation in which the appellant was required to work, by comparison with other persons carrying out duties identical to her own, in the same department of the Commission. The appellant objects that the Civil Service Tribunal failed to provide a satisfactory response to her submissions in that regard and did no more than reject the plea, using an abstract form of words.

<sup>(1)</sup> The Conditions of Employment of Other Servants of the Communities were laid down under Article 3 of Regulation (EEC, Euratom, ECSC) No 259/68 of the Council of 29 February 1968 laying down the Staff Regulations of Officials and the CEOS (OJ 1968 L 6, p. 1).

<sup>(2)</sup> Council Regulation (EC, Euratom) No 723/2004 of 22 March 2004 amending the Staff Regulations of officials of the European Communities and the Conditions of Employment of other servants of the European Communities (OJ 2004 L 124, p. 1).

**Action brought on 29 December 2006 — Sumitomo Chemical Agro Europe v Commission**

(Case T-416/06)

(2007/C 42/76)

*Language of the case: English*

**Parties**

*Applicant:* Sumitomo Chemical Agro Europe SAS (Saint Didier, France) (represented by: K. Van Maldegem and C. Mereu, lawyers)

*Defendant:* Commission of the European Communities