

- (b) it contains manifest errors of appreciation because it decides on the non-inclusion of 1,3-dichloropropene in Annex I to Council Directive 91/414/EEC without it being established that the substance poses an unacceptable risk to human health or the environment and does not meet the requirements of Article 5(1) and 5(2) of Directive 91/414 for inclusion in Annex I;
- (c) it breaches general principles of Community law and, in particular, (i) the principles of legal certainty and legitimate expectations, (ii) the principle of proportionality, (iii) the principle of equal treatment, (iv) the principle of sound administration, and (v) the applicants' right to defence and right to a fair hearing;
- (d) it infringes the EC Treaty and the rule of law related to its application, and in particular, (i) Article 13 of Directive 91/414, as well as (ii) Article 95 EC and Articles 4 and 5 of the above-mentioned directive.

The applicants also raise a plea of illegality pursuant to Article 241 EC against Article 20 of Commission Regulation 1490/2002⁽⁴⁾ which, according to their allegations, substantially altered their legal rights of expectations through the amendment of Regulation 451/2000 so as to provide mandatory involvement of EFSA in the review of the substance concerned.

- (1) Council Directive 91/414/EEC of 15 July 1991 concerning the placing of plant protection products on the market (OJ L 230, p. 1).
- (2) Commission Regulation (EC) No 451/2000 of 28 February 2000 laying down the detailed rules for the implementation of the second and third stages of the work programme referred to in Article 8(2) of Council Directive 91/414/EEC (OJ L 55, p. 25).
- (3) Council Decision 1999/468/EC of 28 June 1999 laying down the procedures for the exercise of implementing powers conferred on the Commission (OJ L 184, p. 23).
- (4) Commission Regulation (EC) No 1490/2002 of 14 August 2002 laying down further detailed rules for the implementation of the third stage of the programme of work referred to in Article 8(2) of Council Directive 91/414/EEC and amending Regulation (EC) No 451/2000 (Text with EEA relevance) (OJ L 224, p. 23).

Appeal brought on 21 December 2007 by Commission of the European Communities against the judgment of the Civil Service Tribunal delivered on 10 October 2007 in Case F-107/06, Berrisford v Commission

(Case T-473/07 P)

(2008/C 64/68)

Language of the case: French

Parties

Appellant: Commission of the European Communities (represented by D. Martin and K. Hermann, Agents)

Other party to the proceedings: Michael Berrisford (Brussels, Belgium)

Form of order sought by the appellant

- set aside the judgment of the Civil Service Tribunal of 10 October 2007 in Case F-107/06 in so far as it holds, following the examination of the first part of the second plea, alleging failure to take any account of the fact that he had reached the promotion threshold two times but had not been promoted during the earlier exercises at first instance, that the Appointing Authority has therefore vitiated the consideration of the applicant's comparative merits at first instance with an error of law and, therefore, in this case, a manifest error of assessment;
- refer the case back to the Civil Service Tribunal;
- reserve the costs.

Pleas in law and main arguments

By this appeal, the Commission seeks partial annulment of the judgment of 10 October 2007 in Case F-107/06 *Berrisford v Commission*, by which the Civil Service Tribunal (CST) annulled its decision not to include the applicant's name on the list of officials promoted in the 2005 promotion procedure and dismissed the action with respect to the remainder of the applicant's forms of order.

In support of its appeal the Commission first puts forward two pleas alleging errors of law which it claims the CST committed in the contested judgment.

First, the Commission claims that the CST has infringed Article 45(1) of the Staff Regulations in so far as it laid down an obligation for the Appointing Authority to take account, by awarding extra points during the consideration of the applicant's merits, of the fact that he was put forward on two occasions by his directorate general in the procedure for 'reserve officials'.

The second error of law that the Commission complains of in the contested decision is an infringement of Article 13(1) and (3)(b) of General Implementing Provisions in that the CST failed to recognise that the applicant's situation in 2003 and 2004 had been implicitly taken into consideration when the AIPN awarded points as a merit aspect related to the length of time in his grade.

Finally, the Commission relies on a plea alleging that the reasoning of the contested decision is contradictory.

— order the Commission to pay the costs.

Pleas in law and main arguments

The pleas and main arguments are similar to those relied on in Case T-417/07 *Lodato Gennaro & Co.*

Action brought on 17 December 2007 — Cofra v Commission

(Case T-477/07)

(2008/C 64/69)

Language of the case: Italian

Parties

Applicant: Cofra srl (Barletta, Italy) (represented by: A. Calabrese, lawyer)

Defendant: Commission of the European Communities

Form of order sought

— annul Decision SG/E/3/MIB/mbp D(2007) 8992 of the Commission of 17 October 2007;

— order the Commission to pay the costs.

Pleas in law and main arguments

The pleas and main arguments are similar to those relied on in Case T-417/07 *Lodato Gennaro & Co.*

Action brought on 17 December 2007 — Nuova Agricast v Commission

(Case T-479/07)

(2008/C 64/70)

Language of the case: Italian

Parties

Applicant: Nuova Agricast srl (Cerignola, Italy) (represented by: A. Calabrese, lawyer)

Defendant: Commission of the European Communities

Form of order sought

— annul Decision SG/E/3/MIB/mbp D(2007) 8992 of the Commission of 17 October 2007;

Action brought on 17 December 2007 — SIMSA v Commission

(Case T-480/07)

(2008/C 64/71)

Language of the case: Italian

Parties

Applicant: Società imballaggi metallici Salerno Srl SIMSA (Salerno, Italy) (represented by: A. Calabrese, lawyer)

Defendant: Commission of the European Communities

Form of order sought

— annul Decision SG/E/3/MIB/mbp D(2007) 8992 of the Commission of 17 October 2007;

— order the Commission to pay the costs.

Pleas in law and main arguments

The pleas and main arguments are similar to those relied on in Case T-417/07 *Lodato Gennaro & Co.*

Action brought on 21 December 2007 — Deltalinqs and SVZ v Commission of the European Communities

(Case T-481/07)

(2008/C 64/72)

Language of the case: Dutch

Parties

Applicants: Deltalinqs and SVZ, Havenondernemersvereniging Rotterdam (Rotterdam, Netherlands) (represented by: M. Meulenbelt, lawyer)

Defendant: Commission of the European Communities