

- Annul the decisions of the Commission of 23 August and 31 October 2007 rejecting complaints R/263/07, R/492/07 and R/390/07 brought against the decisions of the Commission to conclude contracts with or to renew the engagement of the applicants as contract staff only for a fixed period;
- Annul the decision of the Commission of 5 September 2007 rejecting the applications of the applicants of 31 May and 20 July 2007 seeking the extension for an indefinite period of the applicants' contracts as members of the contract staff;
- Annul the decisions of the Commission which lay down the respective conditions of the employment of the applicants in so far as their engagement or the extension thereof is limited to a fixed period;
- Order the defendant to pay the costs.

**Action brought on 29 December 2007 — Luigi Marcuccio  
v Commission of the European Communities**

(Case F-146/07)

(2008/C 64/110)

*Language of the case: Italian*

**Parties**

*Applicant:* Luigi Marcuccio (Tricase, Italy) (represented by G. Cipressa, lawyer)

*Defendant:* Commission of the European Communities

**Subject-matter and description of the dispute**

Action brought against the rejection by the defendant of the applicant's request that it should carry out or conclude an investigation relating to the fact that on 29 October 2001, in the premises of the European Commission's delegation in Angola where he was employed as an official of the defendant, and during working hours, the applicant came accidentally into contact with a whitish powder of unknown nature and that it should provide him with any information as to what befell the sample of that powder and concerning the procedures for keeping the sample and for gaining access to it.

The applicant puts forward, in support of his arguments concerning the rejection by the defendant, the three following pleas in law: (1) absolute lack of any statement of reasons, also that the decision was illogical, inconsistent, unreasonable, confused, a mere pretext and relied on inadequate preparatory inquiries; (2) serious, obvious and manifest infringement of law; (3) breach of the duty to have regard for the welfare of officials and of the principle of sound administration.

**Form of order sought by the applicant**

- annul, in so far as necessary, the note dated 23 February 2007, prot. ADMINB.2/MB/nb D(07)4623;
- annul the decision, however framed, which constituted rejection by the defendant of the request of 10 October 2006 submitted by the applicant to the appointing authority;
- annul, in so far as necessary, the decision, however framed, rejecting the complaint dated 27 April 2007 submitted by the applicant to the appointing authority;
- annul, in so far as necessary, the note dated 4 September 2007 prot. ADMINB.2/MB/lS D(07) 19393;
- establish the fact that the defendant did not carry out, or did not conclude, any suitable investigation, including therein any measures preparatory or consequential to such investigation, for the purpose of ascertaining any circumstance, whether occurring earlier or later, in any way whatsoever connected with the fact that on 29 October 2001, in the premises of the European Commission's delegation in Angola where he was at that time employed as an official of the defendant, and during working hours, the applicant came accidentally into contact with a whitish powder of unknown nature;
- establish and declare that the failure to conduct any investigation was unlawful;
- order the defendant to carry out or conclude the investigation, to perform a series of relevant acts consequential upon the latter, to supply the applicant with pieces of information concerning the event of 29 October 2001 and to guarantee the applicant access to the sample of dust;
- order the defendant to pay to the applicant, as indemnification for that part of the damage already irreversibly caused to date as a result of the failure to carry out the investigation, the sum of EUR 3 000 000, or such greater or lesser sum as the Court of First Instance may consider just and fair;

- order the defendant to pay to the applicant, as indemnification for that part of the damage arising hereafter from the failure to carry out the investigation, the sum of EUR 300, or such greater or lesser sum as the Court may consider just and fair, for every day passing between tomorrow and the day on which, when the investigation has been carried out and all measures taken preparatory or consequential thereto, communication is made to the applicant, together with suitable publicity, in the premises of the delegation and also in the Development and External Relations Directorates-General, of the conclusions of the investigation;
- assess the defendant's conduct before, during and after the event of 29 October 2001 in any way connected to that event, save only the failure to carry out an investigation;
- establish and declare that the conduct in question was unlawful;
- order the defendant to pay to the applicant, by way of indemnification of the damage caused by the conduct in question, the sum of EUR 5 000 000 or such greater or lesser sum as the Court may consider just and fair;
- order the EC to make reimbursement to the applicant of all the costs, disbursements and fees involved in the proceedings, including those relating to the preparation of the party's expert's report which may be drawn up in order to ascertain whether the conditions are met for the defendant to be ordered to pay the applicant each of the abovementioned sums and, more generally, to ascertain any fact whatsoever of relevance for the purpose of the judgment to be given in this case.

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**Action brought on 2 January 2008 — Nijs v Court of Auditors**

**(Case F-1/08)**

(2008/C 64/111)

*Language of the case: French*

#### **Parties**

*Applicant:* Bart Nijs (Bérelange, Grand Duchy of Luxembourg) (represented by: F. Rollinger, lawyer)

*Defendant:* European Court of Auditors

#### **The subject-matter and description of the proceedings**

Firstly, annulment of the decision of the Appeals Committee not to promote the applicant to Grade A\*11 in the 2005 promotion year and, secondly, a claim for damages.

#### **Form of order sought**

- annul the applicant's 2005/06 evaluation report, including Decision No 1/2007 of the Appeals Committee to confirm that report, received by the applicant on 2 March 2007;
- annul the connected and subsequent decisions, in particular the decision not to promote the applicant to Grade AD 11 in 2007;
- annul the decision of the restrictive meeting of the Court of Auditors of 8 March 2007 to renew the term of office of Mr Michel Hervé from 1 July 2007 for a period of six years;
- order the Court of Auditors to make good the non-material damage suffered of EUR 10 000 and to make good the material damage, consisting of the difference between the salary received by the applicant since the effective date of the last promotion decisions, announced on 3 April 2007, and that to which he would have been entitled had he been promoted on the effective date of those decisions;
- order the European Court of Auditors to pay the costs.

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**Action brought on 3 January 2008 — Marcuccio v Commission**

**(Case F-3/08)**

(2008/C 64/112)

*Language of the case: Italian*

#### **Parties**

*Applicant:* Luigi Marcuccio (Tricase, Italy) (represented by: G. Cipressa, lawyer)

*Defendant:* Commission of the European Communities

#### **The subject-matter and description of the proceedings**

Action brought against the defendant's decision refusing the applicant's request to receive an Italian translation of a note addressed to him and drafted in English.