

arbitration clause contained in a contract concluded by or on behalf of the Community, to Article 5(1) of Regulation (EC) No 1406/2002 providing that the Agency shall be a body of the Community, and to Article 225 EC providing that the Court of First Instance shall have jurisdiction to hear and determine at first instance actions or proceedings referred to in Article 238 EC.

Moreover, the applicant submits that it seeks confirmation by the Court that the Seat Agreement is an instrument of international law within the sphere of Community law that binds the Portuguese authorities and that cannot be unilaterally modified. It further applies for a judgment concluding that the processing of applications for motor vehicle registrations by its staff members is in contradiction to the provisions of the Protocol and that the Portuguese authorities are obliged to implement the relevant provisions of the Protocol within a reasonable period of time. Finally, it claims that the Seat Agreement shall not be interpreted in a way that the staff of the EMSA does not enjoy at least the rights, with regards to vehicle registration, of any EU national transferring its residence to Portugal.

(<sup>1</sup>) Regulation (EC) No 1406/2002 of the European Parliament and of the Council of 27 June 2002 establishing a European Maritime Safety Agency (OJ 2002 L 208, p. 1).

(<sup>2</sup>) Published in the Portuguese Official Journal No 224 of 22 September 2004, p. 6073, available on the EMSA's website <http://www.emsa.europa.eu/Docs/legis/protocol%20pt%20government%20and%20emsa.pdf>

**Appeal brought on 5 May 2008 by the Commission of the European Communities against the judgment of the Civil Service Tribunal delivered on 21 February 2008 in Case F-31/07, Putterie-De-Beukelaer v Commission**

(Case T-160/08 P)

(2008/C 183/45)

*Language of the case: French*

**Parties**

*Appellant:* Commission of the European Communities (represented by: C. Berardis-Kayser and K. Herrmann, Agents)

*Other party to the proceedings:* Françoise Putterie-De-Beukelaer (Brussels, Belgium)

**Form of order sought by the appellant**

— set aside the judgement under appeal;

— refer the case back to the CST;

— reserve the costs.

**Pleas in law and main arguments**

By this appeal, the Commission requests that the judgment of the Civil Service Tribunal (CST) of 21 February 2008 in Case F-31/07 *Putterie-De-Beukelaer v Commission*, in which the CST annulled Ms Putterie-De-Beukelaer's Career Development Report concerning the period from 1 January 2005 to 31 December 2005, be set aside in so far as that report does not acknowledge her potential to carry out duties in category B\*.

In support of its appeal, the Commission relies on a single plea in law, alleging, first, infringement by the CST of the principles relating to the scope of the review exercised by the Community judicature of its own motion and, second, infringement of the prohibition on adjudicating *ultra petita*.

The Commission submits that the CST was not entitled to raise of its own motion a plea concerning the substantive legality of the contested act alleging infringement of the respective scope of Article 43 of the Staff Regulations of Officials of the European Communities and Article 10(3) of Annex XIII to those regulations, since substantive pleas are not an absolute bar to proceeding with an action.

In the alternative, the Commission claims that, in so far as paragraphs 75 and 76 of the judgment under appeal could be considered separable from the plea alleging the substantive legality of the contested measure and be categorised as a separate plea alleging that the author of the contested act exceeded its power, the CST infringed the Commission's rights of defence, since the latter was not heard on that point in accordance with Article 77 of the Rules of Procedure of the CST.

**Action brought on 6 May 2008 — Ivanov v Commission**

(Case T-166/08)

(2008/C 183/46)

*Language of the case: French*

**Parties**

*Applicant:* Vladimir Ivanov (Boulogne Billancourt, France) (represented by: F. Rollinger, lawyer)

*Defendant:* Commission of the European Communities