

- (c) infringed Article 107(3)(b) TFEU and misapplied the principles and guidelines set out in the Restructuring Communication.

On the basis of its third plea, relating to disproportionate restructuring requirements, the applicant contends that the decision is vitiated by:

- (a) an error of assessment, since the Commission wrongly calculated the absolute and relative aid amount and violated principle of proportionality and sound administration by requiring excessive restructuring without having carefully and impartially examined all the relevant facts provided to it; and
- (b) an error of assessment and inadequate reasoning by deviating from the Restructuring Communication when assessing the required restructuring.

Appeal brought on 28 January 2010 by Carlo de Nicola against the judgment of the Civil Service Tribunal delivered on 30 November 2009 in Case F-55/08, De Nicola v EIB

(Case T-37/10 P)

(2010/C 80/67)

Language of the case: Italian

Parties

Appellant: Carlo De Nicola (Strassen, Luxembourg) (represented by L. Isola, lawyer)

Other party to the proceedings: European Investment Bank (EIB)

Form of order sought by the appellant

The appellant claims that the General Court should:

- set aside the judgment under appeal;
- order the European Investment Bank (EIB) to pay the costs of the proceedings, together with interest, currency revaluation to be taken into account in fixing the amount awarded.

Pleas in law and main arguments

The present appeal is brought against the judgment of the Civil Service Tribunal (CST) of 30 November 2009. That judgment dismissed the action brought by Mr De Nicola for (i) annulment of the decision by which the EIB rejected his appeal seeking a review of his assessment for 2006 and annulment of the EIB's decision on the promotions for 2006, in so far as Mr De Nicola was not promoted; (ii) annulment of Mr De Nicola's staff report for 2006; (iii) a declaration that Mr De Nicola had been the victim of psychological harassment; (iv) an order that the EIB pay compensation for the damage purportedly sustained as a result of that harassment; and (v) annulment of the decision refusing to meet the cost of certain medical expenses for laser therapy treatment.

Mr De Nicola relies on the following pleas in law in support of his appeal:

- The CST declined, unlawfully, to give a ruling and, when it did not completely forget the subject-matter of the action (for example, the second and third arguments in the application for annulment; the refusal of the Appeals Committee to rule on the merits; and so on), deliberately decided to examine only some of the pleas;
- The CST did not rule on Mr De Nicola's request that it examine whether the conduct of his superiors was lawful in the light of the evaluation criteria adopted by the EIB. Moreover, it incorrectly attributed to other employees the harassment of which Mr De Nicola complained, whereas he attributes this directly and solely to the EIB;
- By way of ground of appeal, Mr De Nicola also refers to the refusal of the requests for production of evidence and the reversal of the burden of proof, as well as the failure to state reasons. On that last point, it is argued that the CST failed to state the reasons relating to many decisive issues, or gave contradictory and/or illogical reasons. In that connection, Mr De Nicola refers, in particular, to the refusal to apply Article 41 of the Staff Regulations, and the rejection of the request for annulment of the staff report for 2006;
- Lastly, Mr De Nicola submits that, as the contract of employment is a private-law contract, the necessary pre-conditions are not met for the application by analogy to his case of the rules and procedural conditions for Union officials under public-law contracts.