

- misinterpretation of the applicant's declarations and an error in law committed by the CST by interpreting the concept of 'absence' as it is defined in Articles 57, 59 and 60 of the Staff Regulations;
- an error in law committed by the CST in applying Article 60 of the Staff Regulations; and
- a failure to state reasons with regard to various decisive points in the contested matter.

Action brought on 11 February 2010 — Phoenix-Reisen and DRV v Commission

(Case T-58/10)

(2010/C 113/79)

Language of the case: German

Parties

Applicants: Phoenix-Reisen GmbH (Bonn, Germany) and Deutscher Reiseverband eV (DRV) (Berlin, Germany) (represented by: R. Gerharz, lawyer)

Defendant: European Commission

Form of order sought

- Annul the defendant's decision of 20 November 2009, notified by letter of 11 December 2009, by which it refused to take action against State aid granted by the Federal Republic of Germany in the form of insolvency payments;
- Order the defendant to pay the costs.

Pleas in law and main arguments

The applicants' action is directed against Commission Decision C(2009) 8707 final of 19 November 2009 concerning State aid NN 55/2009 — Germany; alleged State aid in the form of insolvency payments and the financing thereof. The Commission came to the conclusion in that decision that the measure in question does not constitute State aid for the purposes of Article 87(1) EC.

In support of their claim, the applicants maintain that the subsidisation of insolvent undertakings cannot be justified on the

basis of Directive 80/987/EEC ⁽¹⁾ as it serves solely to protect the employees of the insolvent undertaking, not the undertaking itself. The applicants take the view that the legal practice applied in the Federal Republic of Germany is such that insolvent undertakings profit directly from insolvency payments. Furthermore, the applicants submit that examples from other countries in the Community show that Directive 80/987/EEC can be transposed without competitors being unlawfully subsidised as a result.

⁽¹⁾ Council Directive 80/987/EEC of 20 October 1980 on the approximation of the laws of the Member States relating to the protection of employees in the event of the insolvency of their employer (OJ 1980 L 283, p. 23).

Appeal brought on 10 February 2010 by Brigitte Zangerl-Posselt against the judgment of the Civil Service Tribunal of 30 November 2009 in Case F-83/07 Zangerl-Posselt v Commission

(Case T-62/10 P)

(2010/C 113/80)

Language of the case: German

Parties

Appellant: Brigitte Zangerl-Posselt (Merzig, Germany) (represented by: S. Paulmann, lawyer)

Other party to the proceedings: European Commission

Form of order sought

The appellant claims that the Court should:

- set aside the contested judgment;
- give judgment itself and, as claimed by the appellant at first instance, annul the decision of the selection board of Competition EPSO/AST/27/06 of 25 July 2007 not to allow the appellant to be admitted to the practical and oral tests of that competition which was, in the meantime, confirmed by the decision of 13 December 2007 on her complaint;