

Defendant: Office for Harmonisation in the Internal Market (Trade Marks and Designs)

Subject-matter and description of the proceedings

Application, first, for a declaration of invalidity of the clause in the applicant's contract providing for the automatic termination of the employment contract in the event that the applicant is not selected in an external selection procedure for OHIM and, second, for a declaration that selection procedures OHIM/AD/01/07, OHIM/AD/02/07, OHIM/AST/01/07 and OHIM/AST/02/02 have no effect on the applicant's contract. In addition, application for damages.

Form of order sought

— Set aside the letter from OHIM of 12 March 2009 and annul the decisions of OHIM contained in it, according to which the applicant's employment relationship is terminated with eight months' notice from 16 March 2009, and declare that the applicant's employment relationship with OHIM is ongoing and has not been terminated. To the extent that the Tribunal considers it necessary, the applicant claims that the Tribunal should also set aside further letters from OHIM of 3 August 2009 (three-month suspension of notice period) and 9 October 2009 (rejection of complaint), classified by the applicant as related;

— set aside or declare invalid the cancellation clause in Article 5 of the applicant's employment contract with OHIM, and in the alternative,

declare that the applicant's contract of employment cannot in future be terminated on the basis of the cancellation clause in her employment contract;

in the further alternative, declare that, in any event, the selection procedures referred to in OHIM's letter of 12 March 2009 were not capable of entailing negative consequences on the basis of the cancellation clause;

— order OHIM to pay the applicant compensation of an appropriate amount at the discretion of the Tribunal for the non-material damage arising from the decisions referred to in the first paragraph of the application;

— in the event that, owing to OHIM's unlawful conduct, the applicant's actual employment has already ended at the date of the Tribunal's decision and/or payment of the remuneration owed to the applicant by OHIM, notwithstanding the continuation of the employment relationship;

declare that OHIM is under an obligation to continue to employ the applicant under the same conditions as hitherto and to reinstate her, and order OHIM to compensate the applicant fully for the material damage suffered by her, in particular by paying any outstanding salary and all other expenses incurred by the applicant as a result of OHIM's unlawful conduct (after deduction of unemployment benefit received);

in the alternative, in the event that, in the present situation, for legal or practical reasons the applicant is not reinstated or re-employed under the same conditions as hitherto, order OHIM to pay the applicant compensation for the material damage arising from the unlawful termination of her employment corresponding to the difference between her actual anticipated lifetime earnings and the lifetime earnings the applicant would have achieved if the contract had remained in force, taking into account pension benefits and other entitlements;

— order OHIM to pay the costs.

Action brought on 12 February 2010 — Nicola v EIB

(Case F-13/10)

(2010/C 134/89)

Language of the case: Italian

Parties

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

Defendant: European Investment Bank

Subject-matter and description of the proceedings

Application for annulment of the staff report for 2008, both as regards the part relating to objectives and the part relating to assessment, and of the promotions decided upon on 18 March 2009. In addition, an order that the defendant pay compensation for the material and non-material damage caused to the applicant.

Form of order sought

- Annul the provision of 23 September 2009, in so far as the Appeals Committee rejected the applicant's appeal against the staff report for 2008.

- Annul the staff report for 2008, both as regards the part relating to objectives and the part relating to assessment.

- Annul all related, consequent and prior measures, including the guidelines issued by the HR Directorate for summarising the appraisal by using one of the first letters of the alphabet and the quantitative limits imposed in awarding the mark A or B+, and the promotions decided upon on 18 March 2009, given that, in the light of the view expressed by the applicant's superiors, the EIB failed to take him into consideration under the heading 'Promotions from Function E to D'.

- Order the EIB to pay compensation for the material and non-material damage suffered and to pay the costs of the proceedings, together with interest, currency revaluation to be taken into account in fixing the amount awarded.

Action brought on 25 February 2010 — Marcuccio v Commission

(Case F-14/10)

(2010/C 134/90)

*Language of the case: Italian***Parties**

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

Defendant: European Commission

Subject-matter and description of the proceedings

Application for a declaration that a procedure for recognition of partial invalidity was of excessive duration and an order that the defendant pay compensation for the damage suffered by the applicant.

Form of order sought

- Annul the Commission's decision rejecting the request of 30 January 2009.

- Annul the measure rejecting the complaint of 20 July 2009 against the decision rejecting the request of 30 January 2009.

- In so far as necessary, annul note ADMIN.B.2/MB/l's D(09) 29562 of 6 November 2009 received by the applicant on 16 December 2009.

- In so far as necessary, confirm that the procedure for ensuring that the applicant was afforded the legal guarantees under Article 73 of the Staff Regulations of Officials of the European Communities in connection with an accident sustained by him on 12 September 2003 continued for over five years.

- In so far as necessary, declare that the duration of the procedure in question was unreasonable.

- Order the Commission to pay compensation for the material and non-material damage unjustly suffered by the applicant in connection with the unreasonable duration of the procedure in question, in the sum of EUR 10 000, or such greater or lesser sum as the Tribunal may consider just and equitable.

- Order the Commission to pay to the applicant, with effect from the date following that on which the request of 30 January 2009 was received by the Commission until actual payment of the sum of EUR 10 000, interest on that sum at the rate of 10 % per annum, with annual capitalisation.

- Order the Commission to pay the costs.

Action brought on 26 February 2010 — Andres and Others v ECB

(Case F-15/10)

(2010/C 134/91)

*Language of the case: French***Parties**

Applicants: Carlos Andres and Others (Frankfurt-am-Main, Germany) (represented by: M. Vandebussche and L. Levy, lawyers)