

— in the alternative, refer the case back to the Civil Service Tribunal, sitting in a different formation, for a fresh decision.

Pleas in law and main arguments

The present appeal has been brought against the order of the Civil Service Tribunal (CST) of 22 June 2010. That order dismissed as manifestly inadmissible an action seeking compensation for the damage sustained by the appellant because of the Commission's refusal to reimburse him in respect of the costs incurred in the proceedings in Case T-18/04 *Marcuccio v Commission*.

In support of his claims, the appellant alleges the erroneous and unreasonable interpretation of the concept of 'request' for the purposes of Articles 90 and 91 of the Staff Regulations; total failure to state reasons; distortion and misrepresentation of the facts; and misinterpretation of the case-law on the recovery of costs which a party has been ordered to pay by the Court.

The appellant also alleges breach of the principle of *audi alteram partem* and of the rights of the defence and asserts that the CST failed to rule on a number of his claims.

Action brought on 3 September 2010 — Rubinetteria Cisa v Commission

(Case T-368/10)

(2010/C 288/110)

Language of the case: Italian

Parties

Applicant: Rubinetteria Cisa (Alzo Frazione di Pella, Italy) (represented by M. Pinnarò, lawyer)

Defendant: European Commission

Form of order sought

— Annulment of Decision C(2010) 4185 of 23 June 2010;

— alternatively, if the Court should not annul the fine imposed, reduction of the fine to a more appropriate sum;

— an order that the Commission should pay the costs.

Pleas in law and main arguments

The decision contested in these proceedings is the same as that in Case T-364/10 *Duravit and Others v Commission*.

In support of its claims the applicant puts forward the following pleas in law:

I. Infringement and misapplication of Articles 101 TFEU and 53 EEA

In this regard, it is claimed that the decision, in so far as it concerns Cisa, is quite wrong, for Cisa has played no part (even an unwitting part) in any cartel, having merely exchanged non-sensitive business information which was unreserved and (in almost every case) later than the decisions taken independently and already spreading on the market.

II. Breach of the principles of proportionality and equal treatment

According to the applicant, the Commission failed to consider that the role, involvement, responsibility, advantages etc. of and for each producer differed significantly from one to another. Specifically, the defendant has drawn no distinctions and does not explain why the maximum penalty is to be imposed on Cisa, given that the latter: (i) was never a member of one of the two associations (Michelangelo); (ii) never had bilateral contacts; (iii) did not take part in meetings at which all three products were considered (but only taps, cocks and fittings and ceramic ware) and (iv) had always had only an insignificant share of the market.

So far as the fixing of the fine is concerned, the applicant maintains that the Commission ought to have taken into account and determined the actual effect of the infringement on the market and the extent of the relevant geographic market, and to have taken account of Cisa's actual economic ability to distort competition and of its specific weight.

The applicant alleges also that the basis used for computing the amount of the fine was incorrect, and that the Commission failed to have regard to mitigating circumstances.
