

Form of order sought by the appellant

The appellant claims that the Court should:

- annul the judgment of the Civil Service Tribunal of 9 October 2013 dismissing its application;
- grant the forms of order sought at first instance, as the appellant contends that final judgment may be given on the matter;
- order the other party to the proceedings to pay the costs in their entirety.

Pleas in law and main arguments

By its appeal, the appellant seeks annulment of the judgment of the Civil Service Tribunal (‘the CST’) dismissing its action that sought, first, annulment of the appellant’s assessment report for the year 2010 and, secondly, a claim for damages.

In support of the appeal, the appellant relies on two pleas in law.

1. First plea in law, alleging that the CST erred in law in that it found that the absence of dialogue between the assessor and the appellant in the context of the assessment for the year 2010 was a non-substantial procedural irregularity (concerning points 38 et seq. of the judgment under appeal). The appellant claims that:
 - on the one hand, the CST disregarded the existing case-law;
 - on the other hand, by basing the grounds of the judgment under appeal on the context in which the assessment report had been prepared and not solely on issue of whether holding a formal dialogue was likely to affect the procedure, the CST exceeded the margins of its judicial review by encroaching on the powers of administrative discretion.
2. Second plea in law, alleging that the CST erred in law when it held that the absence of goal-setting for the first part of 2010 did not constitute a substantial procedural defect such as to call into question the validity of the assessment report in question (concerning paragraphs 50 et seq. of the judgment under appeal). The appellant claims that:
 - on the one hand, the CST disregarded the guidelines relating to assessment, insofar as those guidelines provided for the obligation to set new goals when changing the function of the agent during the reference period;
 - on the other hand, the fact that the tasks assigned to the appellant in his new role were described by reference to documents concerning the establishment and functioning of the operational office does not mean that the objectives to be achieved by the appellant in relation to those tasks had been set for him.

Appeal brought on 16 December 2013 by the Court of Auditors of the European Union against the judgment of the Civil Service Tribunal of 17 October 2013 in Case F-69/11, BF v Court of Auditors

(Case T-663/13 P)

(2014/C 52/75)

Language of the case: French

Parties

Appellant: Court of Auditors of the European Union (represented by T. Kennedy and J. Vermer, acting as Agents)

Other party to the proceedings: BF (Luxembourg, Luxembourg)

Form of order sought by the appellant

The appellant claims that the Court should:

- set aside the judgment of the Civil Service Tribunal in Case F-69/11;
- grant the form of order sought at first instance by the Court of Auditors, namely dismiss the action as unfounded;
- order BF to pay the costs of the present proceedings and those which took place before the Civil Service Tribunal.

Pleas in law and main arguments

In support of the appeal, the appellant relies on four pleas in law.

1. First plea in law, alleging an error of law, in so far as the Civil Service Tribunal incorrectly interpreted and applied Article 6 of Decision 45-2010 of 17 June 2010 on the selection procedures for Heads of Unit and Directors.
2. Second plea in law, alleging distortion of the evidence by the Civil Service Tribunal in considering that the scores awarded to the candidates by the Pre-selection Committee constituted information that must be included in the report submitted by the Pre-selection Committee to the appointing authority.
3. Third plea in law, alleging distortion of the facts, in so far as the Civil Service Tribunal acted in breach of its obligation to examine the facts on the basis of which it found there to be a procedural irregularity.

4. Fourth plea in law, alleging a failure to state reasons and an error of law undermining the consistency of the case-law in that the Civil Service Tribunal held that the irregularity relating to the failure to state reasons required by Article 6(1) of Decision 45-2010 with regard to the report of the Pre-selection Committee is liable to lead to the annulment of the decisions contested at first instance.

Appeal brought on 17 December 2013 by the European Commission against the judgment of the Civil Service Tribunal of 7 October 2013 in Case F-97/12 Thomé v Commission

(Case T-669/13 P)

(2014/C 52/76)

Language of the case: French

Parties

Appellant: European Commission (represented by J. Currall and G. Gattinara, acting as Agents)

Other party to the proceedings: Florence Thomé (Brussels, Belgium)

Form of order sought by the appellant

The appellant claims that the Court should:

- set aside the judgment of the Civil Service Tribunal of 7 October 2013 in Case F-97/12 *Thomé v Commission*;
- dismiss the action brought by Ms Thomé in Case F-97/12 as inadmissible, or, in any event, as unfounded;
- reserve the costs.

Grounds of appeal and main arguments

In support of the appeal, the appellant relies on five grounds of appeal.

1. First ground of appeal, alleging infringement of the concept of an act adversely affecting an official. The Commission claims, first, that an act already annulled by the appointing authority in a complaints procedure is not open to being annulled in an action before a Court and, second, that a decision granting a claim of the person concerned cannot be qualified as an act adversely affecting an official (concerning paragraphs 28 to 37 of the judgment under appeal).
2. Second ground of appeal, alleging, first, an error in law in the definition of the extent of the power of review of the appointing authority and of the Civil Service Tribunal with regard to the decisions of selection boards, and the Civil Service Tribunal's power of judicial review and, second, a clear distortion of the subject-matter of the proceedings and a breach of the adversarial principle (concerning paragraphs 50 to 52 of the judgment under appeal). The Commission submits that the Civil Service Tribunal applied an erroneous test of judicial review to the decisions before it, namely decisions of the appointing authority, thus exceeding the limits of its judicial review.

3. Third ground of appeal, alleging breach of the rules of law relating to the assessment of the existence of a university degree in accordance with the notice of competition (concerning paragraphs 56 to 58 of the judgment under appeal). The Commission claims that the Civil Service Tribunal erred in law by taking the professional value of a degree for its academic value and by considering that a non-official degree, such as a document issued by a private educational institution and not recognised for its academic value, must be taken into consideration by the appointing authority.

4. Fourth ground of appeal, alleging breach of the obligation to state reasons in that the Civil Service Tribunal did not explain how, at the date of submission of her application, the degree of the applicant at first instance had complied with the condition laid down in the notice of competition, when that compliance had only been established subsequently, during the complaints procedure (concerning paragraphs 56, 57 and 60 to 64 of the judgment under appeal).

5. Fifth ground of appeal, alleging errors in law in that the Civil Service Tribunal considered that the applicant at first instance had lost a chance of being recruited and must be compensated (concerning paragraph 74 of the judgment under appeal).

Action brought on 17 December 2013 — PAN Europe and Confédération paysanne v Commission

(Case T-671/13)

(2014/C 52/77)

Language of the case: English

Parties

Applicants: Pesticide Action Network Europe (PAN Europe) (Brussels, Belgium) and Syndicat agricole Confédération paysanne (Bagnole, France) (represented by: B. Kloostra, lawyer)

Defendant: European Commission

Form of order sought

The applicants claim that the Court should:

- Annul the Commission decision of 9 October 2013 in which the Commission declared inadmissible:
 - The request for internal review of Implementing Regulation (EU) No 485/2013 of 24 May 2013 amending Implementing Regulation (EU) No 540/2011, as regards the conditions of approval of the active substances clothianidin, thiamethoxam and imidacloprid, and prohibiting the use and sale of seeds treated with plant protection products containing those active substances (OJ 2013 L 139, p. 12);