

# GENERAL COURT

## Judgment of the General Court of 7 December 2017 — Missir Mamachi di Lusignano and Others v Commission

(Case T-401/11) <sup>(1)</sup>

*(Appeal — Civil service — Officials — Murder of an official and his wife — Rule of correspondence between request, complaint and action regarding compensation — Obligation to ensure the security of staff serving the Union — Causal link — Material damage — Joint and several liability — Consideration of the benefits laid down in the Staff Regulations — Non-material damage — Liability of an institution for the non-material damage of a deceased official — Liability of an institution for the non-material damage of the beneficiaries of a deceased official)*

(2018/C 032/25)

Language of the case: Italian

### Parties

*Appellants:* Stefano Missir Mamachi di Lusignano (Shanghai, China) and the 6 other applicants whose names are listed in the Annex to the judgment (represented by: F. Di Gianni, G. Coppo and A. Scalini, lawyers)

*Other party to the proceedings:* European Commission (represented by: G. Gattinara and D. Martin, acting as Agents)

### Re:

Appeal brought against the judgment of the European Union Civil Service Tribunal (First Chamber) of 12 May 2011, *Missir Mamachi di Lusignano v Commission* (F-50/09, EU:F:2011:55), and asking for annulment of that judgment.

### Operative part of the judgment

*The Court:*

- 1) Quashes the judgment of 12 May 2011, *Missir Mamachi di Lusignano v Commission* (F-50/09), in so far as the European Union Civil Service Tribunal has upheld the plea of inadmissibility raised by the European Commission against the claim for compensation for the non-material damage suffered by Mr Carlo Missir Mamachi di Lusignano, Ms Giustina Missir Mamachi di Lusignano, Mr Filiberto Missir Mamachi di Lusignano and Mr Tommaso Missir Mamachi di Lusignano, the latter two represented by Ms Anne Sintobin;
- 2) Quashes the judgment of 12 May 2011, *Missir Mamachi di Lusignano v Commission* (F-50/09), in so far as the Civil Service Tribunal has upheld the plea of inadmissibility raised by the Commission against the claim for compensation for the non-material damage suffered by Mr Livio Missir Mamachi di Lusignano;
- 3) Quashes the judgment of 12 May 2011, *Missir Mamachi di Lusignano v Commission* (F-50/09), in so far as the Civil Service Tribunal has limited the Commission's liability to 40 % of the material damage suffered by Mr Carlo Missir Mamachi di Lusignano, Ms Giustina Missir Mamachi di Lusignano, Mr Filiberto Missir Mamachi di Lusignano and Mr Tommaso Missir Mamachi di Lusignano, the latter two being represented by Ms Sintobin;
- 4) Dismisses the appeal as to the remainder;
- 5) Orders the Commission jointly and severally to pay an amount of EUR 3 million, less statutory benefits considered to be part of that amount paid or payable to Mr Carlo Missir Mamachi di Lusignano, Ms Giustina Missir Mamachi di Lusignano Mr Filiberto Missir Mamachi di Lusignano and Mr Tommaso Missir Mamachi di Lusignano, the latter two being represented by Ms Sintobin, in respect of the material damage suffered by them;
- 6) Orders the Commission jointly and severally to pay Mr Carlo Missir Mamachi di Lusignano an amount of EUR 100 000 in respect of the non-material damage suffered by him;

- 7) Orders the Commission jointly and severally to pay Ms Giustina Missir Mamachi di Lusignano an amount of EUR 100 000 in respect of the non-material damage suffered by her;
- 8) Orders the Commission jointly and severally to pay Mr Tommaso Missir Mamachi di Lusignano, represented by Ms Sintobin, an amount of EUR 100 000 in respect of the non-material damage suffered by him;
- 9) Orders the Commission jointly and severally to pay Mr Filiberto Missir Mamachi di Lusignano, represented by Ms Sintobin, an amount of EUR 100 000 in respect of the non-material damage suffered by him;
- 10) Orders the Commission jointly and severally to pay a total amount of EUR 50 000 to Mr Stefano Missir Mamachi di Lusignano and to the other applicants whose names appear in the Annex, in their capacity as heirs of Mr Livio Missir Mamachi di Lusignano, in respect of the non-material damage suffered by them;
- 11) Orders that the compensation referred to in paragraphs 6 to 10 above shall be increased by default interest, from the delivery of the present judgment until payment in full, at the rate fixed by the European Central Bank for its main refinancing operations, plus two percentage points;
- 12) Dismisses the appeal as to the remainder;
- 13) Orders the Commission to pay the costs relating to the appeal proceedings;
- 14) Orders the Commission to pay the costs relating to the proceedings at first instance.

<sup>(1)</sup> OJ C 282, 24.9.2011.

**Judgment of the General Court of 11 December 2017 — JT v EUIPO — Carrasco Pirard (QUILAPAYÚN)**

(Case T-249/15) <sup>(1)</sup>

**(EU trade mark — Opposition proceedings — Application for EU figurative mark QUILAPAYÚN — Relative ground for refusal — Well-known mark — Article 8(2)(c) of Regulation (EC) No 207/2009 (now Article 8(2)(c) of Regulation (EU) 2017/1001) — Proprietor of the mark)**

(2018/C 032/26)

Language of the case: Spanish

**Parties**

*Applicant:* JT (represented by: A. Mena Valenzuela, lawyer)

*Defendant:* European Union Intellectual Property Office (represented by: E. Zaera Cuadrado, acting as Agent)

*Other parties to the proceedings before the Board of Appeal of EUIPO:* Eduardo Carrasco Pirard (Santiago, Chili) and the 7 other parties to the proceedings before the Board of Appeal of EUIPO whose names are listed in the Annex to the judgment

**Re:**

Action brought against the decision of the Second Board of Appeal of EUIPO of 13 March 2015 (Case R 354/2014-2), relating to opposition proceedings between, on the one hand, JT, and, on the other, Mr Carrasco Pirard and the other parties to the proceedings before the Board of Appeal whose names are listed in the Annex.

**Operative part of the judgment**

*The Court:*

1. Annuls the decision of the Second Board of Appeal of the European Union Intellectual Property Office (EUIPO) of 13 March 2015 (Case R 354/2014-2);
2. Dismisses the remaining heads of claim in the application;