

Action brought on 25 July 2017 — TO v EEA

(Case T-462/17)

(2017/C 347/41)

*Language of the case: French***Parties***Applicant:* TO (represented by: N. Lhoëst, lawyer)*Defendant:* European Environment Agency**Form of order sought**

The applicant claims that the Court should:

- annul the decision of the European Environment Agency (EEA) of 22 September 2016 terminating the applicant's employment as a member of contract staff;
- annul the EEA's decision of 20 April 2017 rejecting the complaint brought by the applicant on 21 December 2016;
- order the EEA to pay the applicant compensation calculated on the basis of the loss of 4 years' salary, subject to deduction of any unemployment benefit received by her during that period;
- order the EEA to pay the applicant a sum of EUR 3 500 by way of compensation for the fees connected with the early termination of her rental contract in Copenhagen, subject to any increase where relevant;
- annul the applicant's payslip for September 2016, particularly in so far as it does not include her salary for 22 September 2016;
- order the EEA to pay the applicant EUR 50 000 by way of compensation for the non-material damage resulting from the dismissal decision of 22 September 2016;
- order the EEA to pay the applicant EUR 5 000 by way of compensation for the non-material damage resulting from the EEA's infringement of Article 26 of the Staff Regulations of Officials of the European Union;
- order the EEA to pay the applicant EUR 10 000 by way of compensation for the non-material damage resulting from the psychological pressure exerted on her by the EEA during her incapacity to work;
- in the alternative, order the EEA to pay the applicant one month's notice and compensation equal to one third of her basic salary per month of probation completed in accordance with Article 84 of the CEOS;
- order the EEA to pay the costs in their entirety.

Pleas in law and main arguments

In support of the action, the applicant relies on eight pleas in law.

1. First plea in law, alleging that Article 48(b) of the CEOS does not apply.
2. Second plea in law, alleging infringement of Article 48(b) and the second paragraph of Article 16 of the CEOS.
3. Third plea in law, based on a plea of illegality on the ground of discrimination with regard to Article 48(b) of the CEOS.
4. Fourth plea in law, alleging infringement of Article 26 of the Staff Regulations and infringement of the rights of defence.
5. Fifth plea in law, alleging infringement of Regulation (EC) No 45/2001 of the European Parliament and of the Council of 18 December 2000 on the protection of individuals with regard to the processing of personal data by the Community institutions and bodies and on the free movement of such data (OJ 2001 L 8, p. 1) and of Article 8 of the Charter of Fundamental Rights of the European Union.
6. Sixth plea in law, alleging infringement of Article 84 of the CEOS and of Article 41 of the Charter of Fundamental Rights of the European Union, and breach of the duty to have regard for the welfare of staff.

7. Seventh plea in law, alleging a manifest error of assessment.
8. Eighth plea in law, alleging a misuse of powers.

Action brought on 26 July 2017 — Barata v Parliament

(Case T-467/17)

(2017/C 347/42)

Language of the case: English

Parties

Applicant: Carlos Manuel Henriques Barata (Lisbon, Portugal) (represented by: G. Pandey, D. Rovetta and V. Villante, lawyers)

Defendant: European Parliament

Form of order sought

The applicant claims that the Court should:

- annul and set aside the following decisions and acts, where appropriate having previously declared illegal and not applicable to the applicant the Notice of Competition EP/CAST/S/16/2016 ⁽¹⁾ under Article 277 of the TFEU:
 - the decision of 26/10/2016 of the Director for Human Resources Development not to include Mr Barata in the draft list of candidates for a contract staff in function group I as a driver under the so called CAST contract procedure 2016/2017;
 - the decision via email of 28/11/2016 by INLO DG of the Parliament to reconfirm the above decision not to include Mr Barata in the draft list of candidates for a contract staff in function group I as a driver under the so called CAST contract procedure 2016/2017;
 - the decision of 25/04/2017 of the European Parliament's General Secretariat, signed by Mr Klaus Welle, notified to Mr Barata via registered letter, which rejected the applicant's complaint under Article 90(2) of the Staff Regulation of Officials of the European Union, lodged on 09/01/2017;
- order the European Parliament to bear the costs of the present proceedings

Pleas in law and main arguments

In support of the action, the applicant relies on four pleas in law arguing that there was a breach of Article 25 of the EU staff regulations and of Article 296 TFEU resulting from a manifest error in the assessment of the applicant's theoretical skills and manifest error in the assessment of facts, considering the inauthenticity of the questionnaire certificate allegedly corresponding to the document submitted by the applicant during the competition. The manifest error occurred as a consequence of lack of supervision by the Parliament over the due diligence of a subcontractor entrusted with the assessment of the applications in the 2016 CAST selection proceedings. This as such had an adverse impact on the obligations to state sufficient reasons to the applicant.

The applicant also relies on the breach of the effective judicial protection principle by negating his right of defence and rights to be heard, thus amounting to a breach of Article 41 of the Charter of Fundamental Rights of the European Union and submits a plea of illegality and inapplicability of the Notice of Competition EP/CAST/S/16/2016.

The applicant also submits that the Parliament acted *ultra vires* by delegating selection procedure to the Ecole de Maîtrise Automobile (hereinafter subcontractor), which has not been bound by the EU Staff Regulations and internal EU Institutions Code of Conducts. According to the applicant, this amounts to a breach of the notice of competition and of Article 30 of the Staff Regulation in combination with Annex III to the Staff Regulation reinforcing abovementioned breach of the duty of sound and good administration.