

Defendant: European Commission

Form of order sought

The applicant claims that the Court should:

- first, declare that Commission Decision (2017) 8839 final of 13 December 2017 on the recovery of a debt is null and void in so far as it relates to debit note No 3241507078 and, secondly, annul that decision as to the remainder;
- order the Commission to pay the costs.

Pleas in law and main arguments

The applicant relies on the following pleas in law:

1. With regard to the application for a declaration that the decision is null and void, the applicant relies on the Commission's appropriation of the powers of the judiciary, in that it substituted the decision of the General Court of 14 November 2017 in Case T-831/14, in which the Court set the European Union's claim relating to a specific debt, with a different, enforceable, decision relating to that debt, in breach of Article 19 TEU and Article 272 TFEU;
2. With regard to the application for annulment, the applicant relies on:
 - a failure to provide adequate reasons, in that the Commission merely stated that certain systemic errors were found in the checks made in the financial audit carried out in the agreement which is the subject of the contested decision, without, however, explaining what those errors are;
 - misuse of powers, in that, by automatically extending the conclusions of a financial audit carried out in the context of one contractual relationship to other contractual relationships, the Commission infringed the second paragraph of Article 135(5) of Regulation No 966/2012⁽¹⁾ and a fundamental principle of administrative contracts in general, and public contracts in particular, that is to say, the inviolability of the remuneration clause.

⁽¹⁾ Regulation (EU, Euratom) No 966/2012 of the European Parliament and of the Council of 25 October 2012 on the financial rules applicable to the general budget of the Union and repealing Council Regulation (EC, Euratom) No 1605/2002 (OJ 2012 L 298, p. 1).

Action brought on 09/02/2018 — Barata v Parliament

(Case T-81/18)

(2018/C 142/71)

Language of the case: English

Parties

Applicant: Joao Miguel Barata (Evere, Belgium) (represented by: G. Pandey, D. Rovetta and V. Villante, lawyers)

Defendant: European Parliament

Form of order sought

The applicant claims that the Court should:

- as a preliminary matter, where appropriate, declare Article 90 of the Staff Regulations invalid and inapplicable in the present proceedings under Article 277 of the Treaty on the Functioning of the European Union;

- annul, first, the decision of 30/10/2017 of the European Parliament rejecting the applicant's complaint under Article 90(2) of the Staff Regulations of officials of the European Union, lodged on 19/06/2017;
- annul, second, the decisions of 20/03/2017 of the Director for Human Resources Development not to include the applicant in the draft list of officials selected for the purposes of the training programme under the 2016 certification procedure, and rejecting his request for a review under Article 90(1) of the Staff Regulations;
- annul, third, the decision of 14/02/2016 of the European Parliament notifying the applicant of his results and not including him in the list of the selected officials for the 2016 certification procedure;
- annul, fourth, the European Parliament's decision of 08/12/2017 informing the applicant that he was ranked 36 out of 87 applications for the 2016 certification procedure, with the result that his name does not appear on the relevant draft list;
- annul, fifth, the European Parliament's decision of 21/12/2016 refusing to review the applicant's assessment and score and excluding him from the said certification process;
- annul, sixth, the European Parliament's internal notice of competition 2016/014 of 07/10/2016;
- annul, finally, in its entirety, the European Parliament's draft list of officials selected to take part in the aforesaid training programme;
- award damages to the applicant amounting to 50 000 euros;
- order the defendant to pay the costs.

Pleas in law and main arguments

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

1. First plea in law, alleging manifest error of assessment and breach of the duty to state reasons, breach of Article 25 of the Staff Regulations, manifest error of assessment of relevant facts and documents, breach of Article 296 of the Treaty on the Functioning of the European Union.
2. Second plea in law, alleging breach of the effective judicial protection principle, breach of Article 41 of the Charter of Fundamental Rights of the European Union and, further, plea of illegality and inapplicability related to the alleged illegality and inapplicability of Article 90 of the Staff Regulations.
3. Third plea in law, alleging lack of competence, breach of the notice of competition and of Article 30 of the Staff Regulations in conjunction with Annex III to those Regulations and further of the duty of sound and good administration.
4. Fourth plea in law, alleging breach of the duty of good administration under Article 41 of the Charter and manifest error of assessment and breach of the principles of equality.
5. Fifth plea in law, alleging breach of Articles 1, 2, 3 and 4 of Regulation No 1/58 ⁽¹⁾, breach of Articles 1d and 28 of the Staff Regulations, and infringement of Article 1(1)(f) of Annex III to those Regulations and further breach of the principles of equal treatment and non-discrimination.

⁽¹⁾ Regulation No. 1 of 15 April 1958 determining the languages to be used by the European Economic Community (OJ, English Special Edition 1952-1958 (I), p. 59).