

- order the defendant to conduct an investigation for the purpose of establishing the events of 5 May 2003 when the head *ad interim* of administration of the EC delegation in Angola drove the applicant's car from the parking lot outside his accommodation to a location approximately four kilometres away, the events of 6 September 2001, and whether there is any link between those events, and to notify the applicant without delay of the results of the investigation, to display in a number of suitable and visible locations notices containing in extract form the findings of the investigation and to ensure access to those findings; in the alternative, order the defendant to pay to the applicant, by way of compensation for the now irreversible harm resulting from the decision rejecting the request of 1 September 2006, the sum of EUR 100 000, or such other greater or lesser sum as the Tribunal may deem to be fair and equitable, and, with regard to the harm which will occur after the date on which this present application is made, the sum of EUR 20, or such other greater or lesser sum as the Tribunal may deem to be fair and equitable, for each day from the date following that on which this present application is made to the date on which, on conclusion of the investigation, the applicant will be notified and the findings given adequate publicity;
- order the defendant to pay to the applicant, by way of compensation for the now irreversible harm resulting from the refusal to send him an Italian translation of the memorandum of 30 November 2006, the sum of EUR 20 000, or such other greater or lesser sum as the Tribunal may deem to be fair and equitable, and, with regard to the harm which will occur after the date on which this present application is made, the sum of EUR 2, or such other greater or lesser sum as the Tribunal may deem to be fair and equitable, for each day from the date following that on which this present application is made to the date on which all measures are adopted to give effect to the annulment of the refusal;
- order the defendant to pay to the applicant, by way of compensation for the harm — both that which has already occurred and that which is liable to occur in the future — resulting from the decision to close the investigation, so far as concerns the harm which has now occurred irreversibly, the sum of EUR 20 000, or such other greater or lesser sum as the Tribunal may deem to be fair and equitable, to be paid immediately after judgment has been delivered in this case, and, with regard to the harm which will occur after the date on which this present application is made, the sum of EUR 25, or such other greater or lesser sum as the Tribunal may deem to be fair and equitable, for each day from the date following that on which this present application is made to the date on which the defendant will have adopted all measures to give effect to the requisite annulment of the decision to close the investigation;
- confirm the illegality of the fact that, at least up to the date on which he received the memorandum of 30 November 2006, the applicant was not provided with any notification of the decision to close the investigation;
- declare unlawful the failure to notify the applicant that the investigation had been closed;

- order the defendant to pay to the applicant, by way of compensation for the harm resulting from the failure to notify the latter that the investigation had been closed, the sum of EUR 50 000, or such other greater or lesser sum as the Tribunal may deem to be fair and equitable;
- order the defendant to pay the costs.

Pleas in law and main arguments

In support of the form of order sought, the applicant invokes the following three pleas: (1) absolute lack of reasons, by virtue of, *inter alia*, want of logic, inconsistency, unreasonableness, confusion, lack of good faith and absence or inadequacy of the investigation; (2) serious, patent and manifest breach of law; (3) breach of the duty of care and of the duty to ensure sound administration.

Action brought on 3 December 2007 — Adjemian and Others v Commission

(Case F-134/07)

(2008/C 64/109)

Language of the case: French

Parties

Applicants: Vahan Adjemian (Angera, Italy) and Others (represented by: S. Orlandi, A. Coolen, J.-N. Louis and E. Marchal, lawyers)

Defendant: Commission of the European Communities

The subject-matter and description of the proceedings

Annulment of the decisions of the Commission, first, refusing to renew the engagement of the applicants as contract staff for a fixed or indefinite period and, second, laying down conditions of employment. In support of their action, the applicants rely on infringement of the principle of stability of employment relations and in particular the unlawfulness of Article 88 of the Conditions of Employment of other servants of the European Communities ('Conditions of Employment') in so far as it limits the duration of the contracts of contract staff.

Form of order sought

- Annul the successive decisions of the Commission and in particular that of 28 April 2004 concerning the maximum duration of the recourse to non-permanent staff in its services;
- Declare Article 88 of the Conditions of Employment unlawful in so far as it limits the duration of the contracts for contract staff;

- Annul the decisions of the Commission of 23 August and 31 October 2007 rejecting complaints R/263/07, R/492/07 and R/390/07 brought against the decisions of the Commission to conclude contracts with or to renew the engagement of the applicants as contract staff only for a fixed period;
- Annul the decision of the Commission of 5 September 2007 rejecting the applications of the applicants of 31 May and 20 July 2007 seeking the extension for an indefinite period of the applicants' contracts as members of the contract staff;
- Annul the decisions of the Commission which lay down the respective conditions of the employment of the applicants in so far as their engagement or the extension thereof is limited to a fixed period;
- Order the defendant to pay the costs.

**Action brought on 29 December 2007 — Luigi Marcuccio
v Commission of the European Communities**

(Case F-146/07)

(2008/C 64/110)

Language of the case: Italian

Parties

Applicant: Luigi Marcuccio (Tricase, Italy) (represented by G. Cipressa, lawyer)

Defendant: Commission of the European Communities

Subject-matter and description of the dispute

Action brought against the rejection by the defendant of the applicant's request that it should carry out or conclude an investigation relating to the fact that on 29 October 2001, in the premises of the European Commission's delegation in Angola where he was employed as an official of the defendant, and during working hours, the applicant came accidentally into contact with a whitish powder of unknown nature and that it should provide him with any information as to what befell the sample of that powder and concerning the procedures for keeping the sample and for gaining access to it.

The applicant puts forward, in support of his arguments concerning the rejection by the defendant, the three following pleas in law: (1) absolute lack of any statement of reasons, also that the decision was illogical, inconsistent, unreasonable, confused, a mere pretext and relied on inadequate preparatory inquiries; (2) serious, obvious and manifest infringement of law; (3) breach of the duty to have regard for the welfare of officials and of the principle of sound administration.

Form of order sought by the applicant

- annul, in so far as necessary, the note dated 23 February 2007, prot. ADMINB.2/MB/nb D(07)4623;
- annul the decision, however framed, which constituted rejection by the defendant of the request of 10 October 2006 submitted by the applicant to the appointing authority;
- annul, in so far as necessary, the decision, however framed, rejecting the complaint dated 27 April 2007 submitted by the applicant to the appointing authority;
- annul, in so far as necessary, the note dated 4 September 2007 prot. ADMINB.2/MB/lS D(07) 19393;
- establish the fact that the defendant did not carry out, or did not conclude, any suitable investigation, including therein any measures preparatory or consequential to such investigation, for the purpose of ascertaining any circumstance, whether occurring earlier or later, in any way whatsoever connected with the fact that on 29 October 2001, in the premises of the European Commission's delegation in Angola where he was at that time employed as an official of the defendant, and during working hours, the applicant came accidentally into contact with a whitish powder of unknown nature;
- establish and declare that the failure to conduct any investigation was unlawful;
- order the defendant to carry out or conclude the investigation, to perform a series of relevant acts consequential upon the latter, to supply the applicant with pieces of information concerning the event of 29 October 2001 and to guarantee the applicant access to the sample of dust;
- order the defendant to pay to the applicant, as indemnification for that part of the damage already irreversibly caused to date as a result of the failure to carry out the investigation, the sum of EUR 3 000 000, or such greater or lesser sum as the Court of First Instance may consider just and fair;