

ORDER OF THE CIVIL SERVICE TRIBUNAL  
(Second Chamber)  
26 June 2008

Case F-1/08

**Bart Nijs**  
v  
**Court of Auditors of the European Communities**

(Civil service — Officials — Article 35(1)(e) of the Rules of Procedure —  
Statement of pleas and arguments — Time-limit for complaints — Manifest  
inadmissibility)

Full text in the language of the case (French) . . . . . II-A-1 - 1231

**Application:** brought under Articles 236 EC and 152 EA, in which Mr Nijs seeks annulment of his 2005/2006 evaluation report, of the connected and subsequent decisions, in particular the decision not to promote him in 2007, and of the decision of the Court of Auditors of 8 March 2007 to renew the mandate for its Secretary General from 1 July 2007, together with an order for the Court of Auditors to pay damages for the material and non-material damage suffered.

**Held:** The action is dismissed as partly manifestly inadmissible and partly manifestly unfounded. The applicant is ordered to pay all the costs.

## Summary

*1. Procedure — Application initiating proceedings — Formal requirements (Statute of the Court of Justice, Art. 19, third para., and Annex I, Art. 7(1) and (3); Rules of Procedure of the Civil Service Tribunal, Art. 35(1)(d) and (e))*

*2. Officials — Actions — Act adversely affecting an official — Definition — Appointment of another official before the applicant took up his duties — Not included (Staff Regulations, Arts 90(2) and 91(1))*

1. Under Article 35(1)(e) of the Rules of Procedure of the Civil Service Tribunal the application initiating proceedings must contain a summary of the pleas and arguments of fact and law on which it is based. Those particulars must be sufficiently clear and precise to enable the defendant to prepare his defence and to enable the Tribunal to give judgment in the action, if appropriate without having to seek further information. In order to guarantee legal certainty and the sound administration of justice, it is necessary, for an action to be admissible, that the basic legal and factual particulars relied on are indicated coherently and intelligibly in the text of the application itself.

That is *a fortiori* the case since, under Article 7(3) of Annex I to the Statute of the Court of Justice, the written stage of the procedure before the Tribunal

comprises, in principle, only one exchange of written pleadings, unless the Tribunal decides otherwise. Furthermore, under the third paragraph of Article 19 of the Statute, which applies to the procedure before the Tribunal in accordance with Article 7(1) of Annex I to the Statute, the official must be represented by a lawyer. The main role of the latter, as a legal representative, is to ensure that the heads of claim of the application are based on sufficiently intelligible and coherent arguments, specifically in view of the fact that the written stage of the procedure before the Tribunal comprises, in principle, only one exchange of written pleadings.

An application in which the facts are expressed in a confused and disorganised manner, preventing the reader from properly associating them with a head of claim in the application or with one of the pleas raised in support of it does not satisfy the requirement for clarity and precision.

Similarly, an action by an official which does not precisely identify the acts being contested and thus does not satisfy the requirements laid down in Article 35(1)(d) of the Rules of Procedure of the Civil Service Tribunal is manifestly inadmissible.

(see paras 24-27 and 46)

See:

T-72/92 *Benzler v Commission* [1993] ECR II-347, paras. 16, 18 and 19; T-85/92 *De Hoe v Commission* [1993] ECR II-523, para. 20; T-154/98 *Asia Motor France and Others v Commission* [1999] ECR II-1703, para. 42; T-277/97 *Ismeri Europa v Court of Auditors* [1999] ECR II-1825, para. 29

2. Only measures producing binding legal effects of such a kind as to affect the applicant's interests by bringing about a distinct change in his legal position and which definitively establish the position of the institution constitute acts adversely affecting him pursuant to Articles 90(2) and 91(1) of the Staff Regulations.

That does not apply to the appointment, within the same institution, of another official, where that appointment has been made prior to the applicant taking up his duties.

(see paras 34 and 35)

See:

T-43/04 *Fardoom and Reinard v Commission* [2005] ECR-SC I-A-329 and II-1465, para. 26

F-78/07 *Boudova and Others v Commission* [2008] ECR-SC I-A-1-97 and II-A-1-509, para. 31