

**Judgment of the Civil Service Tribunal (Second Chamber)
of 14 April 2011 — Clarke and Others v OHIM**

(Case F-82/08) ⁽¹⁾

(Staff case — Temporary staff — Article 8 CEOS — Clause terminating a contract if the agent is not included on the reserve list of a competition — OHIM/AD/02/07 and OHIM/AST/02/07 open competitions — Act adversely affecting an official — Principle of performance of contracts in good faith — Duty of care — Principle of sound administration — Language requirements — EPSO not competent — Directive 1999/70/EC — Fixed-term work)

(2011/C 252/103)

Language of the case: German

Parties

Applicants: Nicola Clarke and Others (Alicante, Spain) (represented by: H. Tettenborn, lawyer)

Defendant: Office for Harmonisation in the Internal Market (Trade Marks and Designs) (represented by: I. de Medrano Caballero, agent, and D. Waelbroeck, lawyer)

Re:

Application for, first, a declaration of the invalidity of the clauses in the applicants' contracts which make provision for automatic termination of their contracts in the event that they are not included on the reserve list drawn up following the first open competition for their function group and, second, for a declaration that the open competitions OHIM/AD/02/07 and OHIM/AST/02/07 have no effect on the contracts of the applicants or for the annulment of those competitions. Further, application for damages for non-material damage caused to the applicants.

Operative part of the judgment

The Tribunal:

1. annuls the decision of the Director of the Human Resources Department of the Office for Harmonisation in the Internal Market (Trade Marks and Designs) (OHIM) of 19 December 2007, and the OHIM decision of 7 March 2008, in so far as the latter decision rejected the respective applications by Mmes Clarke, Papathanasiou and Periañez-González that the termination clause in their temporary staff contracts not be applied in relation to the OHIM/AD/02/07 and OHIM/AST/02/07 competitions;
2. orders OHIM to pay to each of the applicants the sum of EUR 2 000 in damages;
3. dismisses the action as to the remainder;
4. orders OHIM to bear its own costs and to pay those of the applicants.

⁽¹⁾ OJ C 19, 24.1.2009, p. 38.

**Judgment of the Civil Service Tribunal (3rd Chamber) of
13 April 2011 — Lebedef and Jones v Commission**

(Case F-29/09 REV)

(Civil service — Revision of a judgment — No new facts — Inadmissibility)

(2011/C 252/104)

Language of the case: French

Parties

Applicants: Giorgio Lebedef (Senningerberg, Luxembourg) and Trevor Jones (Ernzen, Luxembourg) (represented by: F. Frabetti, lawyer)

Defendant: European Commission (represented by: J. Currall and D. Martin, Agents)

Intervener: Council of the European Union (represented by: K. Zieleśkiewicz and M. Bauer, Agents)

Re:

Action by the applicants for revision of a judgment delivered by the Third Chamber of the Civil Service Tribunal on 30 September 2010 in Case F-29/09

Operative part of the judgment

The Tribunal:

1. Dismisses the application for revision as inadmissible;
2. Orders Mr. Lebedef and Mr. Jones to pay all the costs;
3. Orders the Council of the European Union, the intervener, to bear its own costs.

**Judgment of the Civil Service Tribunal (3rd Chamber) of
13 April 2011 — Chaouch v Commission**

(Case F-30/09) ⁽¹⁾

(Civil service — Remuneration — Installation allowance — Establishment of entitlement — Entry into service as probationary official — Change of residence after establishment to be taken into account — Official's duty of residence under Article 20 of the Staff Regulations)

(2011/C 252/105)

Language of the case: French

Parties

Applicant: Dhikra Chaouch (Oetrange, Luxembourg) (represented by: F. Moyse and A. Salerno, lawyers)

Defendant: European Commission (represented by: D. Martin and J. Baquero Cruz, Agents)

Re:

Annulment of the Appointing Authority's decision not to grant the applicant installation allowance

Operative part of the judgment

The Tribunal:

1. Dismisses Mr. Chaouch's action;
2. Orders Mr. Chaouch to pay all the costs.

⁽¹⁾ OJ C 129 of 06.06.2009, p. 21.

Judgment of the Civil Service Tribunal (3rd Chamber) of 11 May 2011 — J v Commission

(Case F-53/09) ⁽¹⁾

(Civil service — Officials — Social security — Accident insurance and occupational disease — Article 73 of the Staff Regulations — Refusal to recognise the cause of an occupational disease — Obligation to conduct the procedure within a reasonable period)

(2011/C 252/106)

Language of the case: French

Parties

Applicant: J (London, United Kingdom) (represented by: S. Orlandi, A. Coolen, J.-N. Louis and É. Marchal, lawyers)

Defendant: European Commission (represented by: D. Martin and J. Baquero Cruz, Agents)

Re:

Annulment of the decision rejecting the applicant's claim that the disease from which she is suffering should be recognised as an occupational disease, and of the decision to charge her for the fees and costs of the doctor whom she designated and 50 % of the fees and incidental costs of the third doctor on the medical committee

Operative part of the judgment

The Tribunal:

1. Orders the European Commission to pay the applicant damages of one euro;
2. Dismisses the other claims in the action;
3. Orders the European Commission to pay, as well as its own costs, one quarter of the applicant's costs;
4. Orders the applicant to bear three-quarters of her own costs.

⁽¹⁾ OJ C 180, of 01.08.2009, p. 64.

Judgment of the Civil Service Tribunal (3rd Chamber) of 15 February 2011 — Barbin v Parliament

(Case F-68/09) ⁽¹⁾

(Civil service — Officials — 2006 promotion exercise — Enforcement of a judgment of the Tribunal — Comparative examination of the merits — Principle of equal treatment — Half-time parental leave)

(2011/C 252/107)

Language of the case: French

Parties

Applicant: Florence Barbin (Luxembourg, Luxembourg) (represented by: S. Orlandi, A. Coolen, J.-N. Louis and É. Marchal, lawyers)

Defendant: European Parliament (represented by: A. Lukošūtė, C. Burgos, J.F. de Wachter, R. Ignătescu and K. Zejdová, Agents)

Re:

Annulment of the European Parliament's decision not to promote the applicant to Grade AD 12 for the 2006 promotion exercise

Operative part of the judgment

The Tribunal:

1. Dismisses the action;
2. Orders Ms Barbin to pay all the costs.

⁽¹⁾ OJ C 220 of 12.09.09, p. 43.

Judgment of the Civil Service Tribunal (3rd Chamber) of 13 April 2011 — Sukup v Commission

(Case F-73/09) ⁽¹⁾

(Civil service — Remuneration and allowances — Dependent child allowance — Education allowance — Retrospective award)

(2011/C 252/108)

Language of the case: French

Parties

Applicant: Viktor Sukup (Brussels, Belgium) (represented by: S. Rodrigues and C. Bernard-Glanz, lawyers)

Defendant: European Commission (represented by: J. Currall and D. Martin, Agents)

Re:

Application for annulment of the decision of the European Commission's Office for administration and payment of individual rights refusing to grant the applicant dependent child allowance or education allowance