

EUROPEAN UNION CIVIL SERVICE TRIBUNAL

Order of the Civil Service Tribunal (First Chamber) of 15 December 2009 — Apostolov v Commission

(Case F-8/09) ⁽¹⁾

(Civil service — Officials — Action inadmissible — Delay)

(2010/C 37/78)

Language of the case: English

Parties

Applicant: Apostolov (Saarwellingen, Germany) (represented by: D. Schneider-Addaeh-Mensah, lawyer)

Defendant: Commission (represented by: J. Currall and B. Eggers, Agents)

Re:

Annulment of the decision of EPSO not to include the applicant's name in the reserve list for selection procedure EPSO/CAST27/4/07

Operative part of the order

1. Dismisses the action as inadmissible.
2. Orders Mr Apostolov to pay the costs.

⁽¹⁾ OJ C 244, 10.10.2009, p. 16.

Action brought on 17 December 2009 — Bennett and Others v OHIM

(Case F-102/09)

(2010/C 37/79)

Language of the case: French

Parties

Applicants: Kelly-Marie Bennett (Mutxamel, Spain) and Others (represented by: L. Levi, lawyer)

Defendant: Office for Harmonisation in the Internal Market

Subject-matter and description of the proceedings

First, annulment of the decisions to terminate the applicants' contracts pursuant to a termination clause linked to passing an open competition with a specialisation in intellectual property. Secondly, compensation for the non-material harm suffered by the applicants.

Form of order sought

The applicants claim that the Tribunal should:

- annul the decisions to terminate the applicants' contracts, dated 12 March 2009;
- so far as necessary, annul the decision of 9 October 2009, notified on the same day, rejecting the complaints brought by the applicants on 12 June 2009;
- consequently, order the defendant (i) by way of damages and interest, to pay the applicants the remuneration in respect of the period from the date on which the termination of their contracts took effect until the date of their reinstatement on account of the annulment of the decisions taken and (ii) to reconstitute the career of each applicant unlawfully halted by the decisions to terminate their contracts; in the event that the applicants' reinstatement results in significant practical difficulties or is excessive with regard to the situation of a third party, order the defendant to pay monetary compensation equitable to the unlawful termination of the applicants' contracts. Such compensation must take into account, inter alia, not only the loss of remuneration with regard to the past but also the applicant's genuine opportunity to remain in the service of OHIM until their retirement age under a contract for an (fully) indeterminate period and to develop in their career;
- in the alternative, annul the decisions to terminate the applicants' contracts in so far as the duration of the notice period was not fixed taking into account all the years of service of each of the applicants within OHIM;
- order the defendant to pay damages and interest to compensate for the material and non-material harm suffered, assessed on equitable principles at EUR 85 000 in respect of each of the applicants;

— order the Office for Harmonisation in the Internal Market to pay the costs.

— take such further measures and grant such further relief, under the Statute of the Court of Justice and/or the Rules of procedure of the Civil Service Tribunal as may be necessary, just or equitable.

Action brought on 22 December 2009 — Allen and Others v Commission

(Case F-103/09)

(2010/C 37/80)

Language of the case: English

Parties

Applicants: John Allen (Oxford, United Kingdom) and Others (represented by: P. Lasok, I. Hutton, B. Lask, Barristers)

Defendant: European Commission

The subject matter and description of the proceedings

An application for damages and for the annulment of a decision refusing to pay damages in respect of the loss suffered by each applicant as a result of the fact that each of them was not recruited as a temporary servant of the Communities during the time when they worked at the JET Joint Undertaking.

Form of order sought

The applicants claim that the Tribunal should:

- annul the Commission's Decision dated 25 September 2009;
- declare that the applicants had a right to, and should have been, treated as "other personnel" and/or recruited as such, in accordance with Article 8 of the original JET Statutes;
- declare that the Commission discriminated against the applicants without objective justification during their engagement on the JET Project as regards their remuneration, pension rights and related benefits, and security of future employment;
- order the Commission to compensate the applicants for the loss of earnings, pensions, and related benefits and privileges occasioned by the aforesaid breaches of Community law, including interest thereon as appropriate;
- order the costs of this appeal to be paid by the Commission; and

Action brought on 21 December 2009 — Canga Fano v Council

(Case F-104/09)

(2010/C 37/81)

Language of the case: French

Parties

Applicant: Diego Canga Fano (Brussels, Belgium) (represented by: S. Rodriguez and C. Bernard-Glanz, lawyers)

Defendant: Council of the European Union

Subject-matter and description of the proceedings

Application for annulment of the defendant's decision not to include the applicant on the list of officials promoted to Grade AD 13 under the 2009 promotion procedure.

Form of order sought

The applicant claims that the Tribunal should:

- annul the appointing authority's decision not to include the applicant on the list of officials promoted to grade AD 13 under the 2009 promotion procedure;
 - annul, so far as necessary, the appointing authority's decision rejecting the applicant's complaint;
 - order the appointing authority to pay the applicant a sum fixed on equitable principles at EUR 150 000, in respect of compensation for the non-material harm suffered, plus default interest at the legal rate from the date on which it became payable, and a sum fixed on equitable principles at EUR 50 000, in respect of compensation for the harm to his career, plus default interest at the legal rate from the date on which it became payable;
 - order the Council to pay the costs.
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