

The applicants submit that the contested act is unlawful because it is based on an underlying assessment of acrylamide that is scientifically and legally flawed. According to their submissions the defendant committed manifest errors of appraisal in adopting the contested act. In particular, the applicants submit that the contested act infringes the applicable rules established for the identification of substances of very high concern under REACH.

In summary, the applicants claim that the contested act effectively identifies acrylamide as a substance of very high concern on the basis that acrylamide is a chemical substance. However, the applicants claim that acrylamide is used exclusively as an intermediate and is therefore exempt from Title VII concerning Authorisations of REACH, according to Articles 2(8) and 59 of the said Regulation.

Furthermore, the applicants put forward that the contested act was adopted without sufficient evidential basis and therefore, the defendant committed a manifest error of appraisal.

Finally, the applicants claim that the contested act infringes, besides the requirements of REACH, the principles of proportionality and equal treatment.

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(<sup>1</sup>) Regulation (EC) No 1907/2006 of the European Parliament and of the Council of 18 December 2006 concerning the Registration, Evaluation, Authorisation and Restriction of Chemicals (REACH), establishing a European Chemicals Agency, amending Directive 1999/45/EC and repealing Council Regulation (EEC) No 793/93 and Commission Regulation (EC) No 1488/94 as well as Council Directive 76/769/EEC and Commission Directives 91/155/EEC, 93/67/EEC, 93/105/EC and 2000/21/EC (OJ 2006 L 396, p. 1)

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**Appeal brought on 15 January 2010 by Luigi Marcuccio against the order of the Civil Service Tribunal of 29 October 2009 in Case F-94/08, Marcuccio v Commission**

(Case T-12/10 P)

(2010/C 63/86)

*Language of the case: Italian*

#### Parties

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

*Other party to the proceedings:* European Commission

#### Form of order sought by the appellant

- In any event, set aside in its entirety and without exception the order under appeal.
- Declare that the action at first instance, in relation to which the order under appeal was made, was perfectly admissible in its entirety and without any exception whatsoever.
- Allow in its entirety and without any exception whatsoever the relief sought by the appellant at first instance.
- Order the Commission to reimburse the appellant in respect of all costs, disbursements and fees incurred by him in relation to both the proceedings at first instance and the present appeal proceedings.
- In the alternative, refer the case back to the Civil Service Tribunal, sitting in a different formation, for a fresh decision.

#### Pleas in law and main arguments

The present appeal is brought against the order made by the Civil Service Tribunal (CST) on 29 October 2009 in Case F-94/08 *Marcuccio v Commission*. That order dismissed as manifestly inadmissible an action for annulment of the note of 28 March 2008 by which the European Commission informed the appellant of its intention to make a deduction from his invalidity benefit in order to secure payment of the costs incurred in earlier proceedings.

In support of his claims, the appellant alleges distortion and misrepresentation of the facts in the order under appeal, a total failure to state reasons and misapplication and misinterpretation of the principle *tempus regit actum* and of the concept of a decision having an adverse effect.

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**Action brought on 22 January 2010 — Alisei v Commission**

(Case T-16/10)

(2010/C 63/87)

*Language of the case: Italian*

#### Parties

**Applicant:** Alisei (Rome, Italy) (represented by: F. Sciaudone, lawyer, R. Sciaudone, lawyer, A. Neri, lawyer)

*Defendant:* European Commission