

**Appeal brought on 5 March 2010 by the European Parliament against the order of 18 December 2009 of the President of the Civil Service Tribunal in Case F-92/09 R U v Parliament**

(Case T-103/10 P(R))

(2010/C 113/103)

*Language of the case: French*

**Parties**

*Appellant:* European Parliament (represented by S. Seyr and K. Zejdová, Agents)

*Other party to the proceedings:* U

**Form of order sought by the appellant**

— the setting aside of the order under appeal of the President of the Civil Service Tribunal;

— final adjudication on the application for interim relief and its dismissal as unfounded;

— the reservation of the costs.

**Pleas in law and main arguments**

By the present action, the applicant seeks the setting aside of the order of 18 December 2009 of the President of the Civil Service Tribunal (CST) in Case F-92/09 R U v *Parliament* suspending the operation of the dismissal decision of 6 July 2009 pending the Tribunal's decision disposing of the proceedings.

In support of its appeal, the appellant relies on three grounds of appealing alleging:

— failure properly to state the reasons for the decision, because the reasoning set out in the order under appeal does not, on several points, enable the grounds justifying the decision reached by the President of the Civil Service Tribunal to be ascertained;

— infringement of the European Parliament's rights of the defence, because the order for interim relief goes beyond the compass of a simple evaluation under Article 102(2)

of the Rules of Procedure of the Civil Service Tribunal that applications for interim measures must state, in particular, the circumstances giving rise to urgency and the pleas of fact and law establishing a *prima facie* the case for the interim measures applied for. By going into the details of the merits of the case, particularly by adjudicating on the details of the conduct of the improvement procedure, the order infringes the European Parliament's rights of the defence, depriving it of the possibility of taking a position and defending itself on those aspects;

— failure to observe the rules in respect of the burden of proof and the taking of evidence, because as regards the requirement for urgency, all the relevant evidence which could have affected the applicant's financial situation was not taken into account, disregarding the principle of equality of the parties before the court.

**Action brought on 1 March 2010 — BASF v Commission**

(Case T-105/10)

(2010/C 113/104)

*Language of the case: English*

**Parties**

*Applicant:* BASF SE (Ludwigshafen am Rhein, Germany) (represented by: F. Montag, J. Blockx and T. Wilson, lawyers)

*Defendant:* European Commission

**Form of order sought**

— annul the contested decision;

— order the Commission in the costs of the proceedings.

**Pleas in law and main arguments**

The applicant seeks the annulment of Commission Decision C(2009)10568 of 18 December 2009 in Case No. COMP/M.5355 — BASF/Ciba rejecting the proposal of 6 November 2009 to approve Roquette Frères as purchaser of Divestment Business SDA and rejecting the request to modify the commitments subject to which the Commission declared, by