

Appeal brought on 5 September 2011 by Luigi Marcuccio against the order of the Civil Service Tribunal of 20 June 2011 in Case F-67/10 Marcuccio v Commission

(Case T-475/11 P)

(2011/C 311/85)

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

The appellant requests that the Court grant the present appeal, with all the legal consequences thus arising.

Pleas in law and main arguments

The present appeal is brought against the order of the Civil Service Tribunal of 20 June 2011, which dismissed as inadmissible an action seeking an order that the Commission pay compensation for the damage purportedly suffered as a result of the Commission's refusal to reimburse the appellant in respect

of the recoverable costs allegedly incurred in the case which gave rise to the judgment delivered by the Tribunal on 4 November 2008 in Case F-41/06 *Marcuccio v Commission*.

The appellant relies on three grounds of appeal.

1. The rejection, on purported grounds of inadmissibility, of the 'third head of claim' (*sic* between paragraphs 13 and 14 of the order under appeal) made by the appellant in the application at first instance, and the 'fourth head of claim' (*sic* between paragraphs 19 and 20 of the order under appeal) made by the appellant in the application at first instance, was unlawful, including on the grounds of (a) incorrect and unreasonable interpretation and application of the notion of 'request' within the meaning of Article 90 of the Staff Regulations of Officials of the European Union and Article 91 of those rules and illogical and unreasoned failure to have regard to the relevant case-law; (b) absolute failure to state reasons, distortion and misrepresentation of the facts and irrelevant, self-evident, arbitrary, illogical, irrational and unreasonable reasoning;
2. Distortion and misrepresentation of the facts and absolute failure to carry out any preliminary investigations;
3. Failure to rule on a claim made by the appellant in the proceedings and consequent breach of the appellant's right to be heard and rights of defence.