Reports of Cases

JUDGMENT OF THE GENERAL COURT (Appeal Chamber)
16 January 2015

Case T-107/13 P

Cornelia Trentea
v
European Union Agency for Fundamental Rights (FRA)

(Appeal — Civil service — Members of the temporary staff — Recruitment — Rejection of the appellant's application and appointment of another candidate — Plea in law raised for the first time at the hearing — Distortion of the clear sense of the evidence — Duty to state reasons — Order as to costs disputed)

Appeal: against the judgment of the Civil Service Tribunal of the European Union (First Chamber) of 11 December 2012 in *Trentea* v *FRA* (F-112/10, ECR-SC, EU:F:2012:179) and seeking to have that judgment set aside.

Held: The appeal is dismissed. Ms Cornelia Trentea is to bear her own costs and is ordered to pay the costs incurred by the European Union Agency for Fundamental Rights (FRA) in the present proceedings.

Summary

1. Judicial proceedings — Introduction of new pleas during the proceedings — Distinction between pleas concerning matters of public policy and other pleas, such as substantive pleas — Rejection of a plea not among those concerning matters of public policy

2. Appeals — Pleas in law — Incorrect assessment of the facts and evidence — Inadmissibility — General Court's review of the assessment of the facts and evidence — Possible only where the clear sense of the evidence has been distorted
(Statute of the Court of Justice, Annex I, Art. 11)

3. Appeals — Pleas in law — Inadequate statement of reasons — Jurisdiction of the General Court

4. Officials — Decision adversely affecting an official — Obligation to state reasons — Scope — Inadequate statement of reasons — Rectification during the proceedings — Conditions
(Staff Regulations, Art. 25)

5. Judicial proceedings — Duration of the proceedings before the Civil Service Tribunal — Reasonable time

1. At the appeal stage, as regards the appellant's line of argument that the Civil Service Tribunal should have ruled of its own motion on the fact that there was no Staff Committee representative on the Selection Committee or an alleged infringement of his role on it, it is sufficient to state that the appellant has not proved that such a plea raises a matter of public policy.

Moreover, given that no factual evidence on this issue was produced before the Tribunal, inter alia at the hearing, the Tribunal gave reasons to the requisite legal standard for its judgment by merely observing that such a plea was not among the pleas that the court had to raise of its own motion.

(see paras 45, 46)

See:

Order of 3 October 2013 in *Marcuccio* v *Commission*, C-617/11 P, EU:C:2013:657, para. 22

2. The assessment of the facts by the Tribunal does not constitute, save where the clear sense of that evidence has been distorted, a point of law which is subject, as such, to review by the General Court. Such distortion must be obvious from the documents on the Court's file, without there being any need to carry out a new assessment of the facts and the evidence.

(see paras 61-63, 69)

See:

Order of 12 July 2007 in *Beau* v *Commission*, T-252/06 P, ECR-SC, EU:T:2007:230, paras 45 to 47 and the case-law cited therein

3. The extent of the obligation to state reasons is a question of law reviewable by the General Court on appeal against a judgment of the Tribunal.

(see para. 76)

See:

Judgment of 2 March 2010 in *Doktor* v *Council*, T-248/08 P, ECR-SC, EU:T:2010:57, para. 92 and the case-law cited therein

4. It is possible, first, to remedy an inadequate statement of reasons — but not one which is totally absent — even during the proceedings if, before his action was brought, the person concerned already had at his disposal information constituting the beginnings of a statement of reasons; second, to regard a decision as containing a sufficient statement of reasons if it is adopted in circumstances which are known to the official concerned and enable him to understand its scope; and third, as regards in particular decisions rejecting a promotion or a candidature, to supplement the statement of reasons in the decision rejecting a complaint, the reasons given for the latter decision being deemed to be the same as those for the decision which was the subject of the complaint.

(see para. 77)

See:

Judgment in *Doktor* v *Council*, para. 76 supra, EU:T:2010:57, para. 93 and the case-law cited therein

5. A period of almost two years for the Tribunal to deliver a judgment cannot be regarded as unreasonable.

In any event, the excessive length of proceedings cannot entail a judgment being set aside in the absence of any evidence that that fact affected the outcome of the proceedings.

(see paras 84, 85)

See:

Order of 26 March 2009 in *EFKON* v *Parliament and Council*, C-146/08 P, EU:C:2009:201, para. 55 and the case-law cited therein