



Reports of Cases

JUDGMENT OF THE GENERAL COURT (Appeal Chamber)
29 April 2015

Case T-457/13 P

CC
v
European Parliament

(Appeal — Cross-appeal — Civil service — Open competition — Errors in the management of the list of successful candidates — Non-contractual liability — Material harm — Legitimate expectations — Distortion of the facts — Loss of an opportunity — Non-material harm — Obligation to state reasons)

Appeal: against the judgment of the European Union Civil Service Tribunal (Third Chamber) of 11 July 2013 in *CC v Parliament* (F-9/12, ECR-SC, EU:F:2013:116), and seeking to have that judgment set aside.

Held: The judgment of the European Union Civil Service Tribunal (Third Chamber) of 11 July 2013 in *CC v Parliament* (F-9/12) is set aside. The case is referred back to the Civil Service Tribunal. The costs are reserved.

Summary

1. Officials — Non-contractual liability of the institutions — Non-material harm — Adequate reparation by annulment of an unlawful measure — Obligation for the Civil Service Tribunal to state the reasons for its decision (Art. 340 TFEU)

2. EU law — Principles — Equal treatment — Definition — Validity of list of suitable candidates varying in duration for different successful candidates in a competition

3. Actions brought by officials — Unlimited jurisdiction — Compensation for material harm relating to the loss of an opportunity to be recruited — Criteria

1. Where the Civil Service Tribunal merely refers to an unspecified illegality and to the feeling of injustice and pain allegedly suffered by the person concerned, without explaining in particular the reasons why the resulting non-material harm could not have been repaired by the annulment of a measure, the Tribunal breaches the obligation to state the reasons for its decision.

(see paras 51, 52)

See:

Judgment of 7 February 1990 in *Culin v Commission*, C-343/87, ECR, EU:C:1990:49, paras 26 to 29

2. The general principle of equal treatment is a fundamental principle of EU law under which comparable situations must not be treated differently unless such treatment is objectively justified. There is a breach of the principle of equal treatment where two categories of persons whose factual and legal situations are not essentially different receive different treatment or where different situations are treated in the same way.

The situation of a successful candidate in a competition, whose name is belatedly included on the list of suitable candidates the validity of which has been extended pending the outcome of judicial proceedings brought by that candidate, must be compared with that of the person among the other successful candidates whose name was on the list of suitable candidates the longest before he was offered a post as an official. Otherwise, the extension of the list of suitable candidates, which was supposed to be the result of the judicial proceedings brought against the decision to exclude him from the competition by the successful candidate whose name was then added belatedly, would have been of greater benefit to other successful candidates in that competition than to himself.

(see paras 72, 76)

See:

Judgment of 20 February 2009 in *Commission v Bertolete and Others*, T-359/07 P to T-361/07 P, ECR-SC, EU:T:2009:40, paras 37 and 38 and the case-law cited therein

3. The fact that an institution did not immediately inform another institution, with which it had jointly organised a competition, that the applicant's name had been included on the list of suitable candidates denied him the chance to be recruited as a probationary official by the latter institution during the period between his inclusion on the list and the date on which the information was forwarded to that institution.

(see para. 82)