

Other parties to the proceedings: Giorgio Cocchi (Wezembeek-Oppem, Belgium) and Nicola Falcione (Brussels, Belgium)

Other party to the proceedings: European Union Agency for Fundamental Rights (FRA)

Form of order sought by the appellant

- Set aside the judgment of the Civil Service Tribunal of 13 December 2012 in Case F-122/10 *Cocchi and Falcione v Commission*;
- Dismiss the action brought by Messrs Cocchi and Falcione in Case F-122/10 as inadmissible or, in any event, as unfounded;
- Rule that each party is to bear its own costs of the present instance;
- Order Messrs Cocchi and Falcione to pay the costs of the action brought before the Civil Service Tribunal.

Pleas in law and main arguments

In support of the appeal, the appellant relies on two pleas in law.

1. First plea in law, alleging distortion of the notion of ‘act adversely affecting an official’ in that the CST held that the action at first instance was admissible by classifying as an act adversely affecting an official the proposal made by the Commission to the persons concerned as regards the number of annuities to be credited in the transfer of their pension rights under Article 11(2) of Annex VIII to the Staff Regulations of Officials of the European Union.
2. Second plea in law, alleging infringement of the principle of legitimate expectations, since the CST admitted the action, in part, while erring in law as to the interpretation of that principle. The Commission submits that the persons concerned could not claim any legitimate expectations as regards its proposals given that, firstly, those proposals also took account of the periods of service following the entry into service of the persons concerned and, secondly, those proposals did not refer to the amount actually transferred but to the amount transferable, contrary to the clear wording of Article 11(2) of Annex VIII to the Staff Regulations of Officials.

Appeal brought on 21 February 2013 by Cornelia Trentea against the judgment of the Civil Service Tribunal of 11 December 2012 in Case F-112/10 *Trentea v FRA*

(Case T-107/13 P)

(2013/C 129/45)

Language of the case: English

Parties

Appellant: Cornelia Trentea (Barcelona, Spain) (represented by: L. Levi and M. Vandenbussche, lawyers)

Form of order sought by the appellant

The appellant claims that the Court should:

- Set aside the Civil Service Tribunal’s judgment of 11 December 2012 in case F-112/10;
- Consequently, annul the decision of the authority responsible for concluding contracts of employment of 5 June 2010 rejecting the appellant’s candidature for post (ref. TA-ADMIN-AST 4-2009) and the decision appointing another candidate; order the FRA to compensate the appellant’s material prejudice corresponding to the difference between her current salary and the AST 4 salary, until retirement age, including all allocations and indemnities and compensation of pension rights; and order the FRA to compensate the appellant’s moral prejudice evaluated *ex aequo et bono* at 10 000 Euro; and
- Order the FRA to pay the costs in the first instance and appeal.

Pleas in law and main arguments

In support of the appeal, the appellant relies on five pleas in law.

1. First plea in law, alleging a violation of the rules concerning the admissibility of the pleas: admissibility of the submissions put forward at the hearing at first instance regarding the absence from the Selection Committee of a Staff Committee representative — violation by the first judges of the duty to state reasons. The appellant considers that the CST, first, infringed the first paragraph of Article 43 of the Rules of Procedure of the CST by failing to take account of the fact that the submissions at issue were based on documents and information which the FRA produced only in the course of the proceedings before the CST and, second, failed to recognise that the submissions at issue must be held to be admissible on the ground that they were closely connected with other pleas submitted in the written procedure. Third, and in any event, the CST erroneously concluded, without any motivation, that the plea was not among the pleas which the Tribunal may raise of its own motion.

2. Second plea in law, alleging a factual inaccuracy regarding the written tests leading to a violation by the CST of the principle of equal treatment and a distortion of evidence. The appellant considers that the Tribunal made a mistake when it held that it had not been established or even alleged that the questions asked in the written test were identical for all the candidates, since the defendant confirmed it in his statement of defence. This inaccuracy affected the Tribunal's conclusion in law as the principle of equal treatment requires written tests to take place at the same time for all candidates, and not on different days as it was the case in the appellant's selection procedure. Moreover, the judges at first instance rejected the appellant's plea regarding the lack of anonymity of the written test, based on a mere allegation by FRA which she had contested.
3. Third plea in law, alleging the irregular composition of the selection committee, distortion of evidence and violation by the CST of its duty to state reasons. The appellant considers that the Tribunal erred in law and distorted the evidence when it considered, without any further motivation, that the Head of the Administration department of the FRA and the Financial Manager of the FRA had in depth knowledge and experience in the area of procurement, based on mere allegations of FRA contested by the appellant. This lack of expertise also affected the results of the selection.
4. Fourth plea in law, alleging a violation of the duty to state reasons, unreasonable time to issue the judgment. The appellant considers that the judges at first instance erred in law when deciding the defendant had satisfied its obligation to state reasons since the appellant did not know, until the procedure at first instance, which criteria had been used for the assessment of her candidature, was not informed of which qualifications she did not fulfil and did not receive a breakdown of the global marks received until the hearing. The Tribunal also illegally relied on a document submitted by the defendant at the hearing to reach the conclusion that the defendant had satisfied its obligation to state reasons, without justifying of any exceptional circumstances. Moreover, firstly, if the appellant had received this document during the administration phase as she requested, she would have been able to better understand the reasons for her non-selection and challenge this decision more effectively. Secondly, the length of the procedure before the CST would have been more reasonable.
5. Fifth plea in law, alleging a violation of Article 87(2) and 88 of the Rules of Procedure of the CST regarding the costs, violation of the duty to state reasons. The appellant considers that the Tribunal illegally ordered the appellant to bear her own costs and those of the defendant.

Action brought on 21 February 2013 — Othman v Council

(Case T-109/13)

(2013/C 129/46)

Language of the case: French

Parties

Applicant: Razan Othman (Damascus, Syria) (represented by: E. Ruchat, lawyer)

Defendant: Council of the European Union

Form of order sought

— declare the applicant's action admissible and well-founded;

— consequently, annul Decision 2012/739/CFSP of 29 November 2012 and Regulation No 1117/2012 (EU) of 29 November 2012 and their subsequent implementing measures, in so far as they concern the applicant;

— order the Council of the European Union to pay the costs of the proceedings.

Pleas in law and main arguments

In support of her action, the applicant relies on three pleas in law which are in essence identical or similar to those raised in the context of Case T-432/11 *Makhlouf v Council*.⁽¹⁾

⁽¹⁾ OJ 2011 C 290, p. 13.

Action brought on 23 February 2013 — Republic of Lithuania v European Commission

(Case T-110/13)

(2013/C 129/47)

Language of the case: Lithuanian

Parties

Applicant: Republic of Lithuania (represented by: D. Kriauciūnas, R. Krasuckaitė and D. Skara)