



Reports of Cases

JUDGMENT OF THE EUROPEAN UNION CIVIL SERVICE TRIBUNAL
(First Chamber)
26 March 2015

Case F-26/14

Panagiotis Stamoulis
v
European Parliament

(Civil service — Accredited parliamentary assistants — Request for assistance —
Psychological harassment)

Application: under Article 270 TFEU, applicable to the EAEC Treaty pursuant to Article 106a thereof, in which Mr Stamoulis seeks annulment of the decision of the European Parliament implicitly rejecting his request for assistance of 13 February 2013, annulment of the decision of 18 December 2013 dismissing the complaint which he lodged on 26 August 2013, and an order that the Parliament pay him the sum of EUR 7 500 in respect of material harm and the sum of EUR 50 000 in respect of non-material harm.

Held: The decision of the European Parliament implicitly rejecting Mr Stamoulis' request for assistance of 13 February 2013 is annulled. The decision of the European Parliament of 18 December 2013 dismissing Mr Stamoulis' complaint of 26 August 2013 is annulled. The European Parliament is ordered to pay Mr Stamoulis the sum of EUR 45 785.29. The European Parliament is to bear its own costs and is ordered to pay the costs incurred by Mr Stamoulis.

Summary

- 1. Officials — Psychological harassment — Source of the harassment — Presumed perpetrator of the harassment — Member of the European Parliament — Included
(Staff Regulations, Art. 12a(1) and (2))*
- 2. Officials — Obligation of administration to provide assistance — Enforcement in cases of psychological harassment — Identification of the perpetrator of the harassment — Scope of the obligation to provide assistance
(Staff Regulations, Arts 12a, 24 and 90(2); Charter of Fundamental Rights of the European Union, Art. 31(1))*
- 3. Officials — Administration's duty to have regard for the interests of officials — Principle of sound administration — Scope — Request for assistance concerning alleged psychological harassment — Factors to be taken into account when deciding whether to provide assistance
(Staff Regulations, Arts 12a and 24)*

1. The rights under Article 12a of the Staff Regulations are applicable where the perpetrator of the harassment is a Member of the European Parliament. Although it is true that Article 12a(1) of the Staff Regulations applies only to officials, it is also true that Article 12a(2) refers to an official who has been the victim of psychological harassment, without any precise detail as to the source of that harassment. It follows that Article 12a(1) does not, as such, preclude the Parliament from taking action, where the presumed perpetrator of the harassment is a Member of that institution.

(see para. 36)

See:

Judgment in *CH v Parliament*, F-129/12, EU:F:2013:203, para. 51

2. Under the European Parliament's Internal Rules for the Advisory Committee on Harassment and its Prevention at the Workplace, once a case has been reported to the Advisory Committee by an official or other member of the institution's staff, it has specific powers to enforce the provisions of Article 12a of the Staff Regulations on a case by case basis, its principal tasks being, according to Article 5 of those Rules, to prevent and/or stop any harassment, working 'with complete autonomy, independence and confidentiality', according to Article 7 of the Rules.

In particular, it is clear from Articles 10 and 11 of the Internal Rules that the referral of a case to the Advisory Committee by any official or other member of the institution's staff is not subject to the production of any prima facie evidence of harassment, and that, on the contrary, once a case has been reported to it, the Committee is obliged to carry out the tasks entrusted to it without the performance of those duties being subject to any prior decision of the appointing authority, unless the Committee itself reports the matter to the appointing authority for a decision pursuant in particular to Article 14 of the Internal Rules.

Consequently, it is a manifest infringement of the Internal Rules, first, for the Advisory Committee to decline jurisdiction on the pretext that the presumed harasser of an accredited parliamentary assistant was the Member responsible for him, whereas the Rules make no provision for it to decline jurisdiction on that ground, and, second, for the Parliament to reject the staff member's complaint by asserting that the claims of harassment he had brought before the Committee on the basis of Article 9 of the Rules were not supported by any prima facie evidence, even though the Rules make no reference to such an admissibility requirement for the Advisory Committee on Harassment to deal with a request.

It also follows that, pursuant to the third sentence of Article 90(1) of the Staff Regulations, the absence of a reply from the Advisory Committee on Harassment to a staff member's request is equivalent to an implied decision rejecting it by the contracting authority.

Neither the purpose nor the content of the Internal Rules justifies an interpretation in which the Advisory Committee does not have the power to hear an accredited parliamentary assistance who considers himself the victim of harassment and to consider a request for assistance made by him in that connection.

It should be noted, moreover, that a different interpretation would render Article 12a of the Staff Regulations ineffective and would deny accredited parliamentary assistants the protection afforded by that provision against any psychological harassment which they might suffer from a Member. Such an outcome manifestly conflicts with the purpose and scope of that provision of the Staff Regulations and

with Article 31(1) of the Charter of Fundamental Rights of the European Union, which expressly provides that every worker has the right to working conditions which respect his or her health, safety and dignity.

(see paras 40-43, 46, 47)

See:

Judgment in *CH v Parliament*, EU:F:2013:203, para. 59

3. The duty of the administration to have regard for the welfare of its staff and the principle of sound administration imply in particular that when the competent authority takes a decision on a request for assistance from a staff member pursuant to Article 24 of the Staff Regulations, it should take into consideration all the factors which may determine its decision and that when doing so it should take into account not only the interests of the service but also those of the staff member concerned.

It follows that the administration may not reject a request for assistance in connection with alleged harassment on the ground that the staff member concerned has not provided prima facie evidence of his claims where it is established that the administration is in possession of other information capable of supporting the allegation of harassment. When the administration takes a decision pursuant to Article 24 of the Staff Regulations, it is obliged to take into consideration all the factors which may determine its decision on that request.

Having at its disposal information constituting evidence capable of creating serious doubt as to whether the conditions laid down in Article 12a of the Staff Regulations were satisfied, the Parliament infringed its duty to have regard for the interests of the staff member concerned in rejecting his complaint against the implied rejection of his request for assistance solely on the ground that he had not provided prima facie evidence of the alleged harassment, and without even considering whether, had such evidence been provided, it would have been necessary to take appropriate measures, in particular by conducting an investigation, to establish whether the facts underlying his complaint were genuine and to eliminate any doubts as to whether the above-mentioned provisions of the Staff Regulations had been complied with.

(see paras 51, 52, 56, 57)

See:

Judgments in *Klug v EMEA*, F-35/07, EU:F:2008:150, para. 67; *Donati v ECB*, F-63/09, EU:F:2012:193, para. 94, and *Radelet v Commission*, F-7/13, EU:F:2014:217, para. 97