

- Consequently, order the EIB to pay compensation to Dr De Nicola for the harm suffered, as requested in the application instituting proceedings, or, in the alternative, refer the case back to a different chamber of the Civil Service Tribunal in order that it may, in a different formation, give a fresh decision on the paragraphs set aside; and order the EIB to pay the costs.

### Grounds of appeal and main arguments

The present case is in essence identical to Cases F-55/08 and F-59/09, which involved proceedings between the appellant and the European Investment Bank.

The appellant states, in this regard, that, in the judgment under appeal, no adjudication was made on the forms of order seeking annulment of the staff report relating to 2009, of the decision of 25 March 2010 refusing promotion, of the 2009 guidelines, of the EIB President's two letters of 17 and 30 November 2010, and of 'all related, consequent and prior measures'.

In support of his appeal, the appellant relies on three grounds of appeal.

1. First ground: obligation to set aside the 2009 guidelines and the EIB President's letters of 17 and 30 November 2010.
  - The appellant submits, in particular, in this regard, that if the Court were to determine that the guidelines in question are unlawful, their setting-aside would oblige the EIB to carry out its own assessments in accordance with more appropriate criteria which safeguard the appellant and his rights.
2. Second ground: the contractual nature of the relationship between the appellant and the EIB.
  - The appellant argues in this connection that he sought damages for breach in respect of the EIB's contractual liability, and not in respect of the European Union's non-contractual liability. The judgment under appeal, *inter alia*, treats the agents of the EIB in the same way as officials of the other European institutions, even though the employment relationship at issue in the proceedings is governed by private law, thus rendering the legal rules laid down for civil servants inapplicable to the present case.
3. Third ground: application for an order requiring payment of compensation for material and non-pecuniary harm.
  - The appellant submits that the conclusions reached on this point in the judgment under appeal are manifestly wrong in both fact and law, and that consequently all conditions are satisfied for upholding his right to such compensation.

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**Order of the General Court of 19 January 2016 — Klass v OHIM — F. Smit (PLAYSEAT and PLAYSEATS)**

**(Case T-540/14) <sup>(1)</sup>**

(2016/C 106/55)

*Language of the case: Dutch*

The President of the Second Chamber has ordered that the case be removed from the register.

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<sup>(1)</sup> OJ C 329, 22.9.2014.