



Reports of Cases

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

Case T-231/14 P

European Medicines Agency (EMA)

v

David Drakeford

(Appeal — Civil service — Temporary staff — Fixed-term contract — Non-renewal decision — Article 8, first paragraph, of the CEOS — Reclassification of a fixed-term contract as a contract of indefinite duration — Unlimited jurisdiction)

Appeal: against the judgment of the European Union Civil Service Tribunal (Third Chamber) of 5 February 2014 in *Drakeford v EMA* (F-29/13, ECR-SC, EU:F:2014:10), seeking to have that judgment set aside.

Held: The judgment of the European Union Civil Service Tribunal (Third Chamber) of 5 February 2014 in *Drakeford v EMA* (F-29/13, ECR-SC, EU:F:2014:10) is set aside in so far as the Civil Service Tribunal exercised its unlimited jurisdiction in relation to financial matters for the time after the order was made. The appeal is dismissed as to the remainder. The case is referred back to the Civil Service Tribunal. The costs of Mr David Drakeford and the European Medicines Agency (EMA) are reserved. The European Commission, the European Chemicals Agency (ECHA), the European Agency for the Management of Operational Cooperation at the External Borders of the Member States of the European Union (Frontex), the European Food Safety Authority (EFSA) and the European Centre for Disease Prevention and Control (ECDC) shall bear their own costs in relation to these proceedings.

Summary

1. *EU law — Interpretation — Texts in several languages — Uniform interpretation — Consideration of the various language versions — Interpretation according to context and objective*
2. *Officials — Temporary staff — Temporary staff covered by Article 2(a) of the Conditions of Employment of Other Servants — Renewal after the first extension of a fixed-term contract — Reclassification as a contract for an indefinite period — Objective of Article 8, first paragraph, of the Conditions of Employment of Other Servants*

(Conditions of Employment of Other Servants, Art. 2(a), Art. 8, first para., Art. 47)

3. *Appeal — Grounds of appeal — Ineffective ground of appeal — Meaning*

(Art. 256(1), TFEU; Statute of the Court of Justice, Art. 58, first para.)

1. See the text of the decision.

(see para. 22)

See:

Judgment of 2 September 2010 in *Kirin Amgen*, C-66/09, ECR, EU:C:2010:484, para. 41

2. The Civil Service Tribunal committed an error of law in finding that the objective of the first paragraph of Article 8 of the Conditions of Employment of Other Servants was to guarantee a certain stability of employment. In fact, the objective of the first paragraph of Article 8 of those Conditions is to prevent wrongful use by the administration of successive fixed-term contracts. In addition, the limited objective of the article is confirmed by the recognised ability on the part of the administration to terminate at any time the employment relationship of a member of staff with a contract of indefinite duration, in compliance with the procedures set out in Article 47 of those Conditions. In this respect, the Civil Service Tribunal correctly held that the administration could at any time terminate a member of staff's contract of indefinite duration, in compliance with the time-limit specified in Article 47 c) i) of the Conditions, without remotely calling into question the difference between officials and other members of staff or the wide power of discretion that the administration has in its employment relations with the latter.

Furthermore, the exception established by the Civil Service Tribunal to reclassification applying under the first paragraph of Article 8 of the Conditions of Employment of Other Servants in the event that the career path has been interrupted is the logical consequence of the interpretation of that article. The objective of that article is to prevent the situation arising where a temporary member of staff on a fixed-term contract has progressed in his career or where the duties he performs have changed and the administration makes wrongful use of contracts that are technically different in order to avoid reclassification under that article. However, the premiss of that reclassification is that the temporary member of staff, who is progressing in his career or whose duties are changing, maintains an employment relationship characterised by continuity with his employer. If a member of staff should enter into a contract containing a material, and not a technical, amendment to the nature of his duties, the premiss of the application of the first paragraph of Article 8 of those conditions is no longer valid. Indeed, it would be contrary to the spirit of that article to allow every renewal to be taken into consideration for the purposes of the application of the rule contained in the article.

Admittedly, in the light of a prospective comparison of the tasks to be accomplished, the role of head of sector represents a material change from the role of deputy head of sector, giving rise to an interruption for the purposes of the concept as determined by the Civil Service Tribunal. Even though remaining within the same field of activity does not automatically lead to continuity in the duties carried out, that continuity must, in principle, be excluded in the situation where access to the role of head of sector is subject to an external selection procedure. However, since, prior to his appointment as head of sector, the staff member concerned had carried out the duties of interim head of sector, it cannot truly be said that his appointment as head of sector, even though it was the result of an external procedure, actually constituted an interruption in relation to the duties that he was carrying out beforehand.

(see paras 30, 33, 39-41)

See:

Judgment of 4 December 2013, *ETF v Schuerings*, T-107/11 P, ECR-SC, EU:T:2013:624, para.76

3. See the text of the decision.

(see paras 31, 38)

See:

Judgment 19 November 2009 in *Michail v Commission*, T-50/08 P, ECR-SC, EU:T:2009:457, para. 59 and the case-law cited therein.