Reports of Cases

JUDGMENT OF THE GENERAL COURT (Ninth Chamber, Extended Composition)

25 October 2018 *

(Actions for annulment and for compensation — SatCen staff — Members of the contract staff — Jurisdiction of the EU judicature — Common foreign and security policy — Article 24 TEU — Articles 263, 268, 270 and 275 TFEU — Article 47 of the Charter of Fundamental Rights — Equal treatment — Decisions 2014/401/CFSP and 2009/747/CFSP — SatCen's Appeals Board — Plea of illegality — Request for assistance — Manner in which the administrative investigation was carried out — Suspension — Disciplinary proceedings — Removal — Principle of sound administration — Requirement of impartiality — Right to be heard — Access to the file — Non-contractual liability — Premature claim for damages — Non-material damage)

In Case T-286/15,

KF, represented by A. Kunst, lawyer, and N. Macaulay, Barrister,

applicant,

v

The European Union Satellite Centre (SatCen), represented by L. Defalque and A. Guillerme, lawyers,

defendant,

supported by

Council of the European Union, represented by F. Naert and M. Bauer, acting as Agents,

intervener,

ACTION, first, pursuant to Article 263 TFEU for annulment of the decisions of the Director of SatCen of 5 July 2013 to initiate disciplinary proceedings against the applicant, to suspend the applicant and to reject her request for assistance and of 28 February 2014 to remove the applicant, and the decision of SatCen's Appeals Board of 26 January 2015 confirming those decisions and, second, pursuant to Article 268 TFEU seeking compensation for the harm allegedly suffered,

THE GENERAL COURT (Ninth Chamber, Extended Composition),

composed of S. Gervasoni, President, L. Madise, R. da Silva Passos (Rapporteur), K. Kowalik-Bańczyk and C. Mac Eochaidh, Judges,

Registrar: S. Spyropoulos, Administrator,

* Language of the case: English.

having regard to the written part of the procedure and further to the hearing on 26 October 2017,

gives the following

Judgment

I. Background to the dispute

A. European Union Satellite Centre

1 The European Union Satellite Centre (SatCen) originates from the decision of the Council of Ministers of the Western European Union ('the WEU') of 27 June 1991 setting up a satellite data operating centre and adopted on the basis of the decision of the Council of 10 December 1990 on space cooperation within the WEU. As provided in the decision of the Council of Ministers of the WEU of 27 June 1991, the WEU Satellite Centre was set up as a subsidiary body of the WEU and did not have legal personality separate from the WEU.

2 By its declaration made in Marseille (France) on 13 November 2000, the Council of Ministers of the WEU noted the agreement in principle of the Council of the European Union, dated 10 November 2000, regarding the creation, in the form of an agency within the European Union, of a satellite centre incorporating the relevant features of the centre set up within the WEU.

3 Thus, by Council Joint Action 2001/555/CFSP of 20 July 2001 (OJ 2001 L 200, p. 5), SatCen was set up and became operational as of 1 January 2002. Recital 4 of that joint action states that the 'European Union Satellite Centre should have legal personality, while maintaining close links with the Council and having due regard for the general political responsibilities of the European Union and its institutions'.

4 On 30 March 2010, by joint declaration, the Member States of the WEU officially dissolved that organisation with effect from 30 June 2011, on account in particular of the fact that 'with the entry into force of the Lisbon Treaty, a new phase in European security and defence [has begun] '.

5 Subsequently, the Council adopted Decision 2014/401/CFSP of 26 June 2014 on SatCen and repealing Joint Action 2001/555/CFSP on the establishment of a European Union Satellite Centre (OJ 2014 L 188, p. 73), which henceforth constitutes the legal framework applicable to SatCen.

6 It is apparent from recital 2 and from Article 5 of that decision that SatCen functions as a 'European autonomous capability' and that it has the legal personality necessary to perform its functions and attain its objectives.

7 According to Article 2(1) and (3) of that decision, SatCen's core tasks are to support the decision making and actions of the Union in the field of the common foreign and security policy (CFSP) and in particular the common security and defence policy (CSDP), including European Union crisis management missions and operations, by providing, at the request of the Council or the High Representative of the Union for Foreign Affairs and Security Policy, products and services resulting from the exploitation of relevant space assets and collateral data, including satellite and aerial imagery, and related services.

8 Article 3(1) and (2) of Decision 2014/401 specifies that the Political and Security Committee (PSC), under the responsibility of the Council, is to exercise political supervision over SatCen's activities and issue political guidance on SatCen's priorities, whilst the High Representative of the Union for Foreign Affairs and Security Policy is to give it operational direction.

9 SatCen is composed of three operational divisions, namely an Operations Division, a Capability Development Division and an IT Division. Moreover, SatCen has an Administration Division and a Finance Unit.

10 As provided in Article 7(3) of Decision 2014/401, the Director of SatCen is to be the legal representative of that body. Under Article 7(4) and the second paragraph of Article 7(6)(e) of Decision 2014/401, that director is (i) to be responsible for recruiting all other SatCen staff and (ii) to be competent for all personnel matters.

11 As provided in Article 8(1) and (3) of Decision 2014/401, SatCen's staff is composed of contract staff, appointed by the Director of SatCen, and of seconded experts. Article 8(5) of that decision confers on the Board the power to draw up, on a proposal from the Director, SatCen staff rules which are to be adopted by the Council. On the basis of an identical provision, the Council, within the framework of Joint Action 2001/555, adopted Decision 2009/747/CFSP of 14 September 2009 concerning the Staff Regulations of SatCen (OJ 2009 L 276, p. 1; 'the SatCen Staff Regulations').

12 As regards disputes between SatCen and its staff members in respect of matters covered by the SatCen Staff Regulations, Article 28(5) of the SatCen Staff Regulations provides as follows:

'Having exhausted the possibilities of the first resort (an internal administrative appeal), staff members shall be at liberty to seek a settlement before [SatCen's] Appeals Board.

The composition, operation and specific procedures of that body are given in Annex X.'

13 Under Article 28(6) of the SatCen Staff Regulations, it is provided as follows:

'Decisions of the Appeals Board shall be binding on both parties. There shall be no appeal from them. The Appeals Board may:

(a) annul, or confirm, the decisions complained of;

(b) order [SatCen] incidentally to compensate any material damage sustained by the staff member starting from the day the annulled decision began to have effect;

(c) rule further that [SatCen] shall reimburse, within limits to be fixed by the Appeals Board, justified expenses incurred by the claimant ...'

14 Annex X(1) to the SatCen Staff Regulations provides:

'The Appeals Board shall have authority to settle disputes arising out of violations of these Staff Regulations or of the contracts provided for in Article 7 of the Staff Regulations. To that end it shall have jurisdiction with regard to appeals brought by serving or former staff members, or by their heirs and/or their representatives, against a decision of the Director.'

15 Annex X(4)(b) to the SatCen Staff Regulations further provides that an appellant before SatCen's Appeals Board ('the Appeals Board') 'shall have a period of 20 days from notification of the decision complained of … in which to submit a written request that such decision be withdrawn or modified by the Appeals Board[; t]hat request shall be addressed to [SatCen's] Head of Administration and Personnel, who shall acknowledge receipt of it and initiate the procedure for convening the Appeals Board'.

16 As regards, lastly, the composition of the Appeals Board of SatCen, it is apparent from Annex X(2)(a)(b) and (e) to the SatCen Staff Regulations that the Board is to be composed of a Chairman and two members, appointed by the Board of SatCen, for a period of two years, from outside the staff of the SatCen, and that the emoluments of the Chairman and members are to be fixed by the Board of SatCen.

B. The facts giving rise to the dispute and the contested decisions

17 The applicant, KF, was recruited by SatCen as a member of contract staff from 1 August 2009 for a period of three years to occupy the position of Head of the Administration Division. At the end of her probationary period, on 31 January 2010, the applicant's position was confirmed by the Director of SatCen, who noted in that regard that the applicant 'work[ed] with tact and diplomacy, yet using firmness in communicating her decisions'.

18 As part of the annual appraisal for 2010, the applicant was the subject of an appraisal report, dated 28 March 2011, by the Deputy Director of SatCen, in which her overall performance was deemed insufficient and she was awarded the lowest rating. The Deputy Director took the view, inter alia, that 'considering the large spectrum of the administrative field, it [was] absolutely essential for [KF] ... to have confidence in her staff to lead the works of which they have the full competence' and that it was 'suitable to take particularly into account the human relationships mainly in a very sensitive multinational context and to avoid useless tensions between people'. The applicant challenged those conclusions and the manner in which the appraisal was conducted.

19 On 27 March 2012, as part of the annual appraisal for 2011, the Deputy Director of SatCen noted the applicant's positive development as compared to the previous year, and took the view that her overall performance was good, in view of the efforts she had undertaken. He also stated that those efforts 'to manage the administrative team in a better way [had] to be significantly pursued' and that '[her] management style still generate[d] recurring general complain[t]s, perceived, in some cases, as a constant professional pressure'. In the section of the appraisal report regarding propriety and human relations, the Deputy Director noted the need for the applicant to make real efforts to manage her team, avoiding unnecessary pressure and trusting her colleagues more. The applicant also submitted her comments on the appraisal report, stating that human relations within the division were, in her view, at a very good level, whereas communication with the other Heads of Division was often 'tense, based on miscommunication, sometimes escalated by unclear emails, leading to suspicions, allegations and poisoning the cooperation'.

20 On 24 May 2012, the applicant's contract was extended for a term of four years, until 31 July 2016.

21 As part of the annual appraisal for 2012, the Director of SatCen, by internal memorandum of 17 October 2012, instructed the Deputy Director to gather information from staff on propriety and human relations within SatCen. In that internal memorandum, the Director of SatCen specified that particular attention should be given to the situation of staff with management responsibilities, especially Heads of Division, by identifying, if applicable, potential situations involving psychological pressure or bullying which could lead to anxiety, a loss of self-esteem, a loss of motivation and even crying among their subordinates.

22 On 14 November 2012, 12 members of SatCen staff lodged a complaint with the Director and Deputy Director, condemning 'the difficult situation [to] which [they had] been subject for more than the last three years to carry out [their] professional activity in a normal way', stating that that situation 'stem[med] from the behaviour and conduct of the Head of Administration Division, [KF]'.

23 At the beginning of 2013, the Deputy Director of SatCen followed up on the abovementioned internal memorandum of 17 October 2012 regarding propriety and human relations ordered by the Director of SatCen, by sending 40 members of SatCen staff, from several divisions, a questionnaire asking them, using multiple choice questions, to evaluate human relations with their Head of Division. By internal memorandum dated 7 March 2013, the Deputy Director of SatCen informed the Director of SatCen that, in the light of the responses to the questionnaire, 'it clearly appear[ed] that there [was] a real problem of human relations with the Head of Administration Division, [KF], with a negative general feedback from the Administration Division personnel'.

24 By internal memorandum dated 8 March 2013, the Director of SatCen asked the Deputy Director of SatCen, on the basis of Article 27 of the SatCen Staff Regulations, to launch an administrative investigation against the applicant.

25 The administrative investigation consisted in sending a multiple choice questionnaire to 24 members of SatCen staff on 12 June 2013, aimed at ascertaining whether or not they had experienced certain types of behaviour by the applicant (indicating her name) and whether they had witnessed any effects on themselves or other staff members as a result of the behaviour in question. The questionnaires also asked staff to provide any testimonies or evidence to corroborate their responses. The staff members were required to reply before 20 June 2013 and of the 24 questioned, 6 did not reply.

26 In the meantime, in response to her annual appraisal for 2012, in which her overall performance was again considered to be insufficient, by letter of 20 March 2013, the applicant first challenged that appraisal and, secondly, asked the Director of SatCen to take the necessary measures to put an end to her harassment.

27 On 2 July 2013, the Deputy Director of SatCen finalised his investigation, concluding that the applicant did commit the offences alleged against her. According to the investigation report, the applicant engaged in 'intentional, repetitive, sustained or systematic' behaviour 'intended to discredit or undermine the people concerned', and '[since this behaviour alleged against KF was] confirmed and [in view of] its nature, frequency and effect on certain staff members, [it] constitute[d] moral harassment'.

28 By email from the Director of SatCen of 3 July 2013, to which the investigation report was attached, the applicant was informed of the conclusions of the administrative investigation report. In that same email, the Director of SatCen invited the applicant to an interview, on 5 July 2013, in order to continue the procedure as provided for in Article 2 of Annex IX to the SatCen Staff Regulations.

29 By decision of 5 July 2013, the Director of SatCen took formal note that, following his investigation, the Deputy Director of SatCen had reached the conclusion that the applicant's alleged behaviour was confirmed and constituted psychological harassment given its nature, frequency and effect on certain members of SatCen staff. On those grounds and after hearing the applicant on the same day, the Director of SatCen decided, first, to initiate disciplinary proceedings against the applicant before the Disciplinary Board ('the decision to initiate disciplinary proceedings') and, secondly, to suspend the applicant from her duties while granting her continued payment of her remuneration ('the suspension decision').

30 On 23 August 2013, the Director of SatCen decided on the composition of the Disciplinary Board and informed the applicant of this.

31 On 28 August 2013, the applicant lodged an administrative complaint with the Director of SatCen against the decision to initiate disciplinary proceedings and the suspension decision of 5 July 2013, against the decision on the composition of the Disciplinary Board of 23 August 2013, and against the decision by which the Director of SatCen, by implication, rejected her request for assistance in respect of alleged psychological harassment.

32 On 11 September 2013, the composition of the Disciplinary Board was definitively established, it having been found that the applicant had not contested any individual member initially appointed.

33 By letter of 4 October 2013, the Director of SatCen rejected the administrative complaint lodged by the applicant on 28 August 2013. He found that the decision to initiate disciplinary proceedings and the suspension decision were warranted by the information contained in the administrative investigation report. As regards the request for assistance in respect of alleged harassment, the Director of SatCen found that, at the end of a preliminary investigation carried out in response to that request, no conduct attributable to SatCen staff could constitute harassment against the applicant.

34 On 25 October 2013, the Director of SatCen sent the Disciplinary Board a report, which he also sent to the applicant, in accordance with Article 10 of Annex IX to the SatCen Staff Regulations.

35 On 1 November 2013, the applicant sent a letter to the Chair of the Disciplinary Board, asking him to allow her a period of at least 45 days to prepare her defence. She also requested copies of all the documents used during the administrative investigation, that the 12 members of staff who signed the complaint against her on 14 November 2012 as well as the 18 members of staff who filled out the multiple-choice questionnaire in the context of the administrative investigation be heard as witnesses before the Disciplinary Committee, and, lastly, that the identities of the 6 members of staff who declined to fill out that questionnaire be disclosed.

36 By letter of 21 November 2013, SatCen's Head of Administration refused the applicant access to her emails and other documents from her computer as well as her professional mobile telephone.

37 By letter of 28 November 2013, the Chair of the Disciplinary Board informed the applicant that a hearing would be held before the Disciplinary Board on 13 or 14 January 2014. In that same letter, the applicant was asked to submit her written observations to the Disciplinary Board at least one week before the date of the hearing. The applicant sent her written observations on 21 December 2013.

38 On 2 December 2013, the applicant lodged an appeal before the Appeals Board, first, against the decision of the Director of SatCen of 4 October 2013 rejecting her complaint against the suspension decision, the decision to initiate disciplinary proceedings and the decision to reject the request for assistance and, second, against the decision of 21 November 2013 referred to in paragraph 35 above.

39 By letter of 9 December 2013, the applicant requested the Chair of the Disciplinary Board to postpone the hearing. She also indicated the names of the 13 witnesses whom she requested be heard.

40 By letter of 16 December 2013, the Chair of the Disciplinary Board maintained the date of the hearing on 13 or on 14 January 2014 and informed the applicant of his decision to hear two of the witnesses whom she had requested be heard.

41 By email of 17 December 2013, the applicant requested that the Chair of the Disciplinary Board stand down from his function of member of that board, in the light of his involvement in the procedure in relation to her. The applicant also reiterated her request that witnesses be heard and stated that she had received no explanation on the criteria used to reject that request.

42 On the same day, the applicant sent the Director of SatCen a complaint against the decision of the Disciplinary Board of 16 December 2013 noted in paragraph 40 above.

43 Following the hearing held on 13 January 2014, the Disciplinary Board gave a reasoned opinion on 4 February 2014 in which it, first, considered unanimously that the applicant had failed to comply with her professional obligations and, secondly, recommended that she be demoted by at least two grades, so that she would no longer hold a position with managerial responsibilities.

44 After the applicant's hearing on 25 February 2014, on 28 February 2014 the Director of SatCen removed the applicant from her post for disciplinary reasons ('the removal decision'), the decision taking effect one month after that date. In that decision, the Director of SatCen considered that:

'Due to the seriousness of your misconduct as exposed in the Director's Report to the Disciplinary Board, confirmed by the Disciplinary Board's Opinion, the impossibility to reallocate you at the level and responsibility proposed in the Disciplinary Board's Opinion and your negative [*sic*] to recognise that your conduct was inappropriate, I decide, in accordance whit [*sic*] Annex IX Art. 7 [of the SatCen Staff Regulations] to impose the following penalty to you:

– removal from post, involving the termination of your contract with the EU SatCen.

[Your] contract shall be terminated, according to Art. 7. 3 (a).vii of [the SatCen Staff Regulations], with one month notice from this decision.'

45 The removal decision was the subject of an administrative complaint by the applicant, on 17 April 2014, which was rejected by decision of the Director of SatCen of 4 June 2014. On 12 June 2014 the applicant contested the removal decision before the Appeals Board.

46 By decision of 26 January 2015 ('the decision of the Appeals Board'), notified to the applicant on 23 March 2015, the Appeals Board rejected the forms of order sought by the applicant seeking the annulment of the decision to initiate disciplinary proceedings and of the suspension decision. Moreover, after rejecting all the applicant's submissions raised against the removal decision, the Appeals Board partially annulled that decision, solely because its date of effect had been set as 31 March 2014 and not 4 April 2014.

II. Procedure and forms of order sought

47 By application lodged at the Registry of the General Court on 28 May 2015, the applicant brought this action.

48 By a separate document lodged on 4 June 2015, the applicant applied for anonymity, which was granted by decision of the General Court of 29 July 2015.

49 By decision of 13 January 2016, pursuant to Article 69(d) of the Rules of Procedure of the General Court, and after having allowed the parties to submit their observations, the General Court stayed the present proceedings pending the Court of Justice's final decision in Case C-455/14 P, *H* v *Council and Commission*. Following the delivery of the judgment of 19 July 2016, *H* v *Council and Commission* (C-455/14 P, EU:C:2016:569), the proceedings were resumed.

50 By document lodged at the Court Registry on 21 April 2016, the Council applied for leave to intervene in the present proceedings in support of the form of order sought by SatCen.

51 Following the departure of the Judge-Rapporteur initially designated, the present case was assigned to a new Judge-Rapporteur, who was assigned to the Ninth Chamber, to which the case was therefore assigned.

52 By order of 27 October 2016, the President of the Ninth Chamber of the Court granted the Council leave to intervene.

53 On 17 July 2017, the Court assigned the case to the Ninth Chamber sitting in extended composition.

54 The applicant claims that the Court should:

– annul the decision rejecting her request for assistance, the decision to initiate disciplinary proceedings, the suspension decision, the removal decision and the decision of the Appeals Board (together, 'the contested decisions');

– so far as necessary, annul, first, the decision of the Director of SatCen of 4 October 2013 rejecting her complaint against the decision to reject her request for assistance, the decision to initiate disciplinary proceedings and the suspension decision and, second, the decision of the Director of SatCen of 4 June 2014 rejecting her complaint against the removal decision;

– order SatCen to pay her a sum corresponding to unpaid salaries by way of compensation for the material damage and the sum of EUR 500 000 by way of compensation for the non-material damage suffered;

– order SatCen to pay the costs, together with interest calculated at a rate of 8%.

55 SatCen contends that the Court should:

– dismiss the action for annulment and the action for compensation brought by the applicant 'given the lack of jurisdiction of the General Court';

– in the alternative, dismiss the action as partly inadmissible and partly unfounded;

– order the applicant to pay the costs.

56 At the hearing, the Council essentially supported SatCen's first head of claim.

III. Law

57 The present action consists of an application for annulment and a claim for compensation.

58 Without formally raising an objection for the purposes of Article 130(1) of the Rules of Procedure, SatCen pleads (i) that the General Court lacks jurisdiction and (ii), in essence, that the action is inadmissible.

A. The jurisdiction of the General Court

59 In her application, the applicant submits that the General Court has jurisdiction to rule in her action, noting that although, admittedly, SatCen was established by a Council Joint Action, the proceedings concerning that organisation do not fall under the exclusion of the jurisdiction of the EU judicature with respect to provisions relating to the CFSP provided for in Article 24(1) TEU and Article 275 TFEU.

60 Accordingly, the applicant submits, first, that the contested decisions are purely administrative or disciplinary and relate to staff management. Therefore, such decisions clearly differ from political or strategic measures taken within the framework of the CFSP, the latter being the only measures concerned by the exclusion of the jurisdiction of the EU judicature.

61 Secondly, the applicant submits that, according to the case-law of the Court of Justice, the Union institutions, bodies, offices and agencies acting within the framework of the CFSP must respect the constitutional principles and fundamental rights, the observance of which the Court of Justice of the European Union has a duty to ensure. Since the present dispute concerns the applicant's fundamental rights, the EU judicature has jurisdiction.

62 To that end, the jurisdiction of the Court of Justice of the European Union under the second paragraph of Article 275 TFEU to review the legality of decisions providing for restrictive measures must be interpreted as meaning that it concerns any decision in which an infringement of the fundamental rights of a natural person is alleged and, therefore, that it applies to the applicant's situation.

63 Finally, the applicant notes that she had no possibility of recourse before a national court and that, since the Treaties have established a complete system of legal remedies and procedures, it cannot be acceptable that decisions such as those at issue in the present case escape all review by the courts.

64 In that regard, the applicant submits, in essence, that the possibility of bringing proceedings before the Appeals Board with competence to examine her claims, under the SatCen Staff Regulations, cannot be treated as an action before the courts, in accordance with the relevant provisions of the Convention for the Protection of Human Rights and Fundamental Freedoms, signed in Rome on 4 November 1950, and of the Charter of Fundamental Rights of the European Union ('the Charter').

65 SatCen submits that the Court of Justice of the European Union, as an EU institution, must observe the principle of conferral. Therefore, in so far as the Treaties do not contain any provision which confers jurisdiction on the General Court to rule on disputes between SatCen and its staff, the General Court should decline jurisdiction if it is not to infringe the principle of conferral by extending its jurisdiction beyond that provided for in the Treaties.

66 In support of its argument, SatCen notes that, under the fifth paragraph of Article 263 TFEU, when setting up a body, office or agency, an EU institution is free to permit a court other than the EU judicature to review the legality of measures adopted by that body, office or agency.

67 Therefore, that provision of primary law enables the Council to provide, in Article 28(6) of the SatCen Staff Regulations, for the jurisdiction of the Appeals Board to rule on disputes between SatCen and its staff members.

68 As such, the Appeals Board is a special court whose exclusive jurisdiction authorised by the fifth paragraph of Article 263 TFEU precludes the jurisdiction of the EU judicature to rule on the present dispute.

69 Precluding the jurisdiction of the Court of Justice of the European Union to rule on disputes between SatCen and its staff is supported by the decision of the Representatives of the Governments of the Member States of the European Union, meeting within the Council, of 15 October 2001, on the privileges and immunities granted to the European Union Institute for Security Studies and SatCen, and to their bodies and staff members, Article 6 of which provides that SatCen staff members are to enjoy immunity from legal process in respect of acts performed by them in the exercise of their official functions.

70 That decision conveys the express will of the Member States to exclude disputes concerning the performance of duties by SatCen staff members from the jurisdiction of national and EU courts. SatCen notes that, contrary to Protocol No 7 on the privileges and immunities of the European Union (OJ 2010 C 83, p. 266), which provides for immunity from legal process for officials and other servants

of the Union whilst submitting them to the jurisdiction of the Court of Justice in case of disputes with the EU institutions, the decision referred to in the previous paragraph does not provide for the same jurisdiction for the Court of Justice of the European Union in respect of SatCen.

71 Drawing support from the judgment of 12 November 2015, *Elitaliana* v *Eulex Kosovo* (C-439/13 P, EU:C:2015:753), SatCen adds that decisions adopted in the field of CFSP, but related to administrative expenditure, fall within the jurisdiction of the Court of Justice of the European Union only in the event of decisions attributable to the budget of the European Union. Thus, in the present case, since the contested decisions do not concern the European Union's budget, but contributions from the Member States, with the exception of Denmark, the jurisdiction of the General Court should be excluded.

72 In the rejoinder, SatCen also submits that, in principle, the EU judicature does not have jurisdiction to review measures adopted by EU institutions, bodies, offices or agencies falling within the CFSP. The position would be different only if the decision establishing a body, office or agency in the field of CFSP, or its staff regulations, provides expressly that the Court of Justice of the European Union has jurisdiction in respect of disputes between that body, office or agency and its staff members.

73 In the context of SatCen, neither the act establishing it, nor its Staff Regulations, give the Court of Justice of the European Union jurisdiction to review the legality of measures adopted against its staff members.

74 In the reply, the applicant considers that SatCen's line of argument is called into question by the judgment of 19 July 2016, *H* v *Council and Commission* (C-455/14 P, EU:C:2016:569).

75 According to the applicant, in that judgment, the Court of Justice held that the exclusion of the General Court's jurisdiction pursuant to Article 24 TEU and Article 275 TFEU could not be extended to decisions taken in respect of conflict at work. Therefore, acts of staff management, although adopted in the context of the CFSP, do not automatically fall outside the jurisdiction of the EU judicature.

76 Relying on paragraph 55 of the judgment of 19 July 2016, *H* v *Council and Commission* (C-455/14 P, EU:C:2016:569), the applicant adds that the lack of jurisdiction of the EU judicature in the present case would lead, in breach of the principle of equal treatment, to SatCen staff being treated differently from the staff of other bodies falling within the CFSP, such as the European Defence Agency and the European External Action Service (EEAS). She therefore claims that staff tied to those bodies are able to bring proceedings before the Court of Justice.

77 By contrast, SatCen submits that it is clear from the judgment of 19 July 2016, *H* v *Council and Commission* (C-455/14 P, EU:C:2016:569), that, in the absence of the jurisdiction of the EU judicature being expressly provided for, as set out in paragraph 72 above, the Court of Justice of the European Union has jurisdiction, in the field of CFSP, only to review the legality of acts of staff management concerning staff members seconded by the Member States, in order to avoid any inequality in relation to experts seconded by the EU institutions, in respect of whom the Court of Justice of the European Union retains jurisdiction pursuant to the Staff Regulations of the European Union ('the Staff Regulations').

78 Accordingly, the conclusion in the judgment of 19 July 2016, *H* v *Council and Commission* (C-455/14 P, EU:C:2016:569), cannot be transposed to the situation of the applicant, who is a member of SatCen's contract staff and not a national expert seconded by a Member State or an EU institution.

79 SatCen adds that, in any event, the Court of Justice of the European Union also has no jurisdiction in respect of a national expert seconded to SatCen since such jurisdiction is not provided for in the decision by the Board of SatCen of 18 July 2007 concerning national experts on secondment.

80 As a preliminary point, the Court notes that, pursuant to the final sentence of the second subparagraph of Article 24(1) TEU and the first paragraph of Article 275 TFEU, the EU judicature does not, in principle, have jurisdiction with respect to the provisions relating to the CFSP or with respect to acts adopted on the basis of those provisions (see judgment of 19 July 2016, *H* v *Council and Commission*, C-455/14 P, EU:C:2016:569, paragraph 39 and the case-law cited).

81 In that regard, the CFSP is defined in the first subparagraph of Article 24(1) TEU as covering all areas of foreign policy and all questions relating to the Union's security, including the progressive framing of a common defence policy that might lead to a common defence.

82 In this case, the contested decisions were adopted by the Director and the Appeals Board of SatCen, a body governed by Decision 2014/401, adopted on the basis, inter alia, of Article 28 TEU, regarding the operational action of the EU and falling within Chapter 2, Title V, of the Treaty on European Union, relating to the CFSP. In that regard, as is apparent from recital 2 and from Article 2 of that decision, SatCen's mission consists, in essence, in providing Member States and the EU institutions with products and services resulting from the exploitation of space and aerial observation assets, in order to support the decision-making and actions of the EU in the field of the CFSP.

83 Nonetheless, the fact that the contested decisions fall within the framework of the functioning of a body operating in the field of the CFSP cannot, in itself, mean that the EU judicature lacks jurisdiction to rule on this dispute (see, to that effect, judgment of 19 July 2016, *H* v *Council and Commission*, C-455/14 P, EU:C:2016:569, paragraph 43 and the case-law cited).

84 The final sentence of the second subparagraph of Article 24(1) TEU and the first paragraph of Article 275 TFEU introduce a derogation from the rule of the general jurisdiction which Article 19 TEU confers on the Court of Justice of the European Union to ensure that in the interpretation of the Treaties the law is observed, and they must, therefore, be interpreted narrowly (see judgment of 19 July 2016, *H* v *Council and Commission*, C-455/14 P, EU:C:2016:569, paragraph 40 and the case-law cited).

85 Similarly, while Article 47 of the Charter cannot confer jurisdiction on the Court of Justice of the European Union, where the Treaties exclude it, the principle of effective judicial protection nonetheless implies that the exclusion of the EU judicature's jurisdiction in the field of the CFSP should be interpreted narrowly (judgment of 28 March 2017, *Rosneft*, C-72/15, EU:C:2017:236, paragraph 74).

86 Moreover, as is apparent from both Article 2 TEU, which is included in the common provisions of that treaty, and Article 21 TEU, concerning the European Union's external action, to which Article 23 TEU, relating to the CFSP, refers, the European Union is founded, in particular, on the values of equality and the rule of law. The very existence of effective judicial review designed to ensure compliance with provisions of EU law is inherent in the existence of the rule of law (see judgment of 19 July 2016, *H* v *Council and Commission*, C-455/14 P, EU:C:2016:569, paragraph 41 and the case-law cited).

87 In the present case, as provided in her employment contract, the applicant was recruited to occupy the position of Head of the Administration Division of SatCen.

88 By this action, the applicant seeks, first of all, annulment of the suspension decision, the decision to initiate disciplinary proceedings and the removal decision, by which decisions the Director of SatCen (i) suspended her from her functions, (ii) initiated disciplinary proceedings against her and (iii) terminated her contract on disciplinary grounds. Next, the applicant seeks annulment of the decision of the Appeals Board, which essentially upheld the three abovementioned decisions. Moreover, the applicant asks the Court to annul the decision by which the Director of SatCen implicitly rejected her request for assistance, lodged on account of alleged psychological harassment against her. Lastly, the applicant seeks compensation for the material and non-material damage that she claims to have suffered as a result of the adoption of the contested decision.

89 The suspension decision and the decision to initiate disciplinary proceedings were adopted after an administrative investigation, following a complaint by 12 SatCen staff members condemning the negative atmosphere within the Administration Division and the Finance Unit, attributable, according to the complainants, to the applicant and to the fact that she was in daily conflict with her colleagues by constantly criticising them, to such an extent that some of them were alleged to have been victims of psychological harassment by her. In the context of the investigation and then of the proceedings before the Disciplinary Board, several staff members from the Administration Division and the Finance Unit of SatCen thus submitted replies to a questionnaire and witness statements aimed at corroborating those criticisms. Similarly, in her appraisal reports in respect of 2010 to 2012, the applicant's superiors called into question her managerial capabilities and her management of human relations at work, which it was claimed were a regular source of conflict.

90 As regards the removal decision of the applicant, it was motivated, as is apparent from the Disciplinary Board's opinion, to which that decision refers, by the accusation against the applicant that she essentially engaged, repeatedly, in inappropriate conduct, in particular shouting, making denigrating and hurtful comments, and intimidating remarks towards other staff members from the Administration Division and Finance Unit of SatCen.

91 It follows that the suspension decision, the decision to initiate disciplinary proceedings and the removal decision mentioned above constitute purely acts of staff management which, in the light of their grounds and objectives, and of the context in which they were adopted, were not indented to support the conduct, definition or implementation of the CFSP within the meaning of Article 24(2) TEU, or, more specifically, to fulfil the missions of SatCen falling within the CFSP, recalled in paragraphs 7 and 82 above. The same conclusion must apply to the decision of the Appeals Board which adopted a legally binding decision confirming, in essence, the three abovementioned decisions, in accordance with the powers conferred on that board by the SatCen Staff Regulations (see paragraphs 13 and 14 above).

92 The same is true of the implied decision to reject the request for assistance. That request for assistance was made in the context of the disciplinary proceedings directed against the applicant, since the applicant essentially claimed in those proceedings that the accusations of which her conduct was the subject matter fell within a situation of psychological harassment against her, and in relation to which she had sought assistance from SatCen.

93 Moreover, first, it must be stated that the SatCen Staff Regulations provide, in Chapter VII thereof and in Annex IX thereto, for a disciplinary regime similar to that laid down in Title VI of, and in Annex IX to, the Staff Regulations, as regards both the administrative investigation and the proceedings before the Disciplinary Board and the categories of punishments and factors to be taken into account in order to determine the appropriate punishment. Similarly, Section 6 of Annex IX to the SatCen Staff Regulations provides, in substantially identical terms to those of Section 6 of Annex IX to the Staff Regulations, for the possibility of suspending a staff member accused of serious misconduct.

94 Second, Article 28(1) to (3) of the SatCen Staff Regulations provides for an administrative complaint procedure before the Director of SatCen, the purposes of which, it must be recognised, is comparable to the pre-litigation procedure established by Article 90 of the Staff Regulations, namely to enable the parties to reach an amicable settlement of their dispute.

95 It must therefore be considered that this dispute is comparable to disputes between an institution, body, office or agency of the European Union which are not covered by the CFSP and one of its officials or other servants, which may be brought before the EU judicature under Article 270 TFEU, which provides that the Court of Justice of the European Union has jurisdiction in any dispute between the European Union and its servants (see, by analogy, judgment of 6 March 2001, *Dunnett and Others* v *EIB*, T-192/99, EU:T:2001:72, paragraph 54).

96 The exception to the jurisdiction of the Court of Justice of the European Union provided for in the final sentence of the second subparagraph of Article 24(1) TEU and in the first paragraph of Article 275 TFEU, which must be interpreted narrowly, cannot be considered to be so extensive as to exclude the jurisdiction of the EU judicature to review the legality of acts such as those at issue in the present case, which fall within the scope of an EU body, whereas the EU judicature has jurisdiction to review the legality of acts which are identical in terms of their content, of the objectives that they pursue, of the procedure leading to their adoption and of the context surrounding that adoption, where such acts concern an institution, body or agency of the European Union whose tasks are unrelated to the CFSP (see, by analogy, judgment of 19 July 2016, *H* v *Council and Commission*, C-455/14 P, EU:C:2016:569, paragraph 55).

97 Any other interpretation would amount to excluding the staff members of an EU body covered by the CFSP from the system of judicial protection offered to EU staff members, in breach of the principle of equal treatment (see, by analogy, judgment of 18 October 2001, *X* v *ECB*, T-333/99, EU:T:2001:25, paragraphs 38 to 40).

98 The interpretation set out in paragraph 96 above is confirmed by the option for SatCen, provided for in Article 8(3) of Decision 2014/401, to second officials from EU institutions, who, as SatCen acknowledged at the hearing, may, during the period of their secondment, bring actions before the EU judicature on the basis of Article 270 TFEU. Moreover, that interpretation is also confirmed by the jurisdiction of the EU judicature to rule, by virtue of Article 11(3)(a) and (6) of Council Decision (CFSP) 2015/1835 of 12 October 2015 defining the statute, seat and operational rules of the European Defence Agency (OJ 2015 L 266, p. 55), on actions brought by the contract staff of that agency, and to rule, by virtue of the last paragraph of Article 6(2) of Council Decision 2010/427/EU of 26 July 2010 establishing the organisation and functioning of the [EEAS] (OJ 2010 L 201, p. 30), on actions brought by the contract staff of the EEAS (see, by analogy, judgment of 19 July 2016, *H* v *Council and Commission*, C-455/14 P, EU:C:2016:569, paragraph 56).

99 Accordingly, the General Court has jurisdiction to rule on this dispute. That jurisdiction stems, respectively, as regards the review of the legality of the contested decisions, from Article 263 TFEU and, as regards claims for the non-contractual liability of the European Union to be incurred, from Article 268 TFEU, read in conjunction with the second paragraph of Article 340 TFEU, taking into account Article 19(1) TEU and Article 47 of the Charter (see, by analogy, judgment of 19 July 2016, *H* v *Council and Commission*, C-455/14 P, EU:C:2016:569, paragraph 58).

100 That conclusion is not called into question by SatCen's other arguments.

101 In the first place, it is necessary to reject SatCen's argument based on the provisions of the SatCen Staff Regulations providing for the jurisdiction of the Appeals Board to give a decision from which no appeal lies on disputes between SatCen and its staff members.

102 It is true, as the Council observed at the hearing, that the mechanism of the Appeals Board as the body for settling disputes between SatCen and its staff is attributable to the specific nature of SatCen, which was initially tied to the WEU, an international inter-governmental organisation, and subsequently, from 1 January 2002, to the EU as established before the entry into force of the Lisbon Treaty (see paragraphs 1 to 3 above). In those circumstances, the situation of SatCen staff could not be treated in the same way as that of servants of the Union, who were alone capable of bringing actions before the General Court, in accordance with Article 236 EC (now Article 270 TFEU), which could justify, within SatCen, the establishment of a body such as the Appeals Board, with jurisdiction to settle work-related disputes. However, such a difference of treatment no longer appears to be justified after the entry into force of the Lisbon Treaty, on 1 December 2009, from which it is apparent that the Union has replaced and succeeded the European Community (Article 1 TEU) and, accordingly, all the servants of the Union, whether they fall within the scope of the former Community or the Union as established

before the entry into force of the Lisbon Treaty, may be placed in a similar situation. Accordingly, disputes between SatCen and its staff members may henceforth be treated in the same way as disputes between any servant of the Union and his employer (see paragraphs 91 to 99 above).

103 In that regard, contrary to what the Council contended at the hearing, it is useful to recall that the Council chose, when adopting Decision 2011/411/CFSP of 12 July 2011 defining the statute, seat and operational rules of the European Defence Agency and repealing Joint Action 2004/551/CFSP (OJ 2011 L 183, p. 16), to end the jurisdiction of an 'Appeal Board' to rule on disputes between the European Defence Agency and its contract staff, previously provided by Title VII of Council Decision 2004/676/EC of 24 September 2004 concerning the Staff Regulations of the European Defence Agency (OJ 2004 L 310, p. 9). Decision 2011/411, recital 4 of which specified that it sought 'to take into account the amendments to the Treaty on European Union (TEU) introduced by the Treaty of Lisbon', established, in Article 11(4) thereof, the jurisdiction of the Court of Justice of the European Union over such disputes.

104 In the second place, it is necessary to reject SatCen's argument that the fifth paragraph of Article 263 TFEU legitimises the possibility for the Council to confer on the Appeals Board exclusive jurisdiction, precluding that of the General Court, to rule on disputes between SatCen and its staff members.

105 In that regard, it should be recalled that, according to Article 19 TEU, the Court of Justice of the European Union is to ensure that in the interpretation and application of the Treaties the law is observed. Moreover, as provided in the first sentence of Article 256(1) TFEU, the General Court is to have jurisdiction to hear and determine at first instance actions or proceedings referred to in Articles 263, 265, 268, 270 and 272 TFEU, with the exception of those assigned to a specialised court set up under Article 257 TFEU and those reserved in the Statute of the Court of Justice of the European Union for the Court of Justice. In this case, Articles 263 and 268 TFEU provide the basis for the General Court's jurisdiction to rule on this dispute (see paragraph 99 above).

106 It is true, according to the fifth paragraph of Article 263 TFEU, that acts setting up bodies, offices and agencies of the Union may lay down specific conditions and arrangements concerning actions brought by natural or legal persons against acts of these bodies, offices or agencies intended to produce legal effects in relation to them.

107 However, contrary to what SatCen contends, that provision cannot be interpreted as meaning that it grants the Council, in its decision relating to the SatCen Staff Regulations, the right to shield from any judicial review by the EU judicature acts adopted by the Director of SatCen and which are intended to produce legal effects in the context of its internal operations, by conferring on the Appeals Board exclusive jurisdiction to give a decision 'from which there shall be no appeal' on disputes between SatCen and its staff, as is stated in Article 28(6) of the SatCen Staff Regulations. To allow such an interpretation would undermine the jurisdiction of the EU judicature to ensure 'that in the interpretation and application of the Treaties the law is observed', as required by the second sentence of the first paragraph of Article 19(1) TEU. As the Council recognised at the hearing, the 'specific conditions and arrangements' in the fifth paragraph of Article 263 TFEU must be interpreted as meaning that they refer to the drawing up, by a body, office or agency of the European Union, of purely internal terms and conditions which are prerequisites to legal proceedings, which govern, inter alia, the operation of a self-monitoring mechanism or the course of an out-of-court settlement with a view to avoiding litigation before the EU Courts (see, to that effect, order of 12 September 2013, *European Dynamics Luxembourg and Others* v *OHIM*, T-556/11, EU:T:2013:514, paragraphs 59 and 60).

108 It is apparent from Article 28(6) of the SatCen Staff Regulations that the Appeals Board exercises, obligatorily and exclusively, review of the lawfulness of the decisions of Director of SatCen and that it may also rule on claims for compensation lodged by SatCen staff members.

109 It follows that Article 28(6) of the SatCen Staff Regulations is incompatible with the Treaties and, in particular, with Article 19 TEU and Article 256 TFEU, inasmuch as it provides that the Appeals Board has authority, obligatorily and exclusively, to settle disputes between SatCen and its staff members, even though the General Court has jurisdiction at first instance over that type of action.

110 In that context, the argument put forward by SatCen, according to which the Appeals Board satisfies the criteria of an independent and impartial tribunal laid down by the European Court of Human Rights, is irrelevant. Since the General Court has jurisdiction to review the legality of decisions such as those of the Director of SatCen and to rule on the applicant's claim for compensation, it cannot be accepted that such a body, even if independent and impartial, could carry out such tasks in place of the EU judicature.

111 In the third place, it is necessary to reject SatCen's argument that, in essence, by virtue of their decision of 15 October 2001 on the privileges and immunities of SatCen, the Representatives of the Governments of the Member States of the European Union, meeting within the Council, intended to preclude without reservation the jurisdiction of the Court of Justice.

112 That decision relates solely to the privileges and immunities granted to SatCen and to its staff members by the Member States, within their domestic legal orders and therefore has no connection with the jurisdiction of the EU judicature. Accordingly, the fact that such a decision does not reserve the jurisdiction of the Court of Justice of the European Union for disputes between SatCen and its staff members, contrary to Article 11(a) of Protocol No 7 on the privileges and immunities of the European Union, with respect to disputes between the Union and its servants, does not mean that the General Court cannot hear and determine disputes between SatCen and its staff members.

113 In the fourth place, SatCen's argument based on the judgment of 12 November 2015, *Elitaliana* v *Eulex Kosovo* (C-439/13 P, EU:C:2015:753), and alleging that the contested decisions are not attributable to the European Union budget, must also be rejected. In that case, the Court confirmed its jurisdiction in a specific situation, namely that of measures adopted concerning public procurement in a context falling within the CFSP, and which gave rise to expenditure to be charged to the European Union budget. The circumstance that this case is unrelated to that situation does not preclude the jurisdiction of the General Court in the present case, since that jurisdiction stems from the considerations set out in paragraphs 88 to 99 above.

114 The General Court therefore has jurisdiction to rule on all the heads of claim submitted by the applicant.

B. Admissibility

115 As a preliminary point, it should be observed that the applicant's claims seeking the annulment of the decisions by which the Director of SatCen allegedly rejected her complaints against the decision to reject the request for assistance, the decision to initiate disciplinary proceedings, the suspension decision and the removal decision must be regarded as being directed against those four decisions. According to settled case-law relating to the pre-litigation procedure provided for in Article 90 of the Staff Regulations, which pursues the same objective as Article 28(1) to (3) of the SatCen Staff Regulations (see paragraph 94 above), the complaint of a servant and its rejection by the competent authority constitute an integral part of a complex procedure, so that the action, even if it is formally directed against the rejection of the complaint of the servant, has the effect of bringing before the General Court the act adversely affecting the applicant against which the complaint was lodged (see, by analogy, judgment of 20 September 2000, *De Palma and Others* v *Commission*, T-203/99, EU:T:2000:213, paragraph 21 and the case-law cited).

116 Next, in its defence, SatCen contends in essence that all the claims for annulment and compensation are inadmissible, raising two pleas of inadmissibility, based on the employment relationship between the applicant and SatCen, and on the contractual nature of the dispute, respectively.

117 Lastly, in the alternative, SatCen pleads the inadmissibility, first, of the claim directed against the decision to reject the request for assistance, second, of the claims directed against the decision to initiate disciplinary proceedings and, third, against the arguments directed against the proceedings before the Disciplinary Board.

1. The plea of inadmissibility based on the employment relationship between the applicant and SatCen

118 SatCen contends that the employment relationship between the applicant and SatCen precludes her from being classified as a third party within the meaning of Article 263 TFEU on the one hand, and precludes non-contractual liability on the part of the European Union on the other.

119 According to SatCen, the legal remedies open to any natural or legal person under Articles 263, 268 and 340 TFEU must be distinguished from the jurisdiction of the General Court with regard to disputes between the European Union and its servants, provided for in Article 270 TFEU and Article 91 of the Staff Regulations. That distinction is justified by the employment relationship which exists between the European Union and its staff members and should therefore apply, by analogy, to the applicant's situation. Therefore, the applicant may not bring proceedings before the Court of Justice on the basis of Articles 263, 268 and 340 TFEU, even if the legal remedy provided for in Article 270 TFEU is not open to her either, as the Staff Regulations do not apply to SatCen staff members.

120 However, it should be observed at the outset that SatCen's line of argument is based on an incorrect premiss, given that, as was observed in paragraph 99 above, the General Court's jurisdiction to rule on this dispute is based on Articles 263 and 268 TFEU.

121 It is true, as SatCen notes, that the employment relationship between the applicant and SatCen confers a specific nature on this dispute. In principle, such a relationship would mean that the dispute between a staff member of an EU body and his employer does not fall within the scope of Articles 263, 268 and 340 TFEU, but of Article 270 TFEU.

122 The fact remains however, as the parties noted, that Article 270 TFEU is not applicable to the applicant's situation. In the words of that provision, the Court of Justice of the European Union has jurisdiction in any dispute between the Union and its servants within the limits and under the conditions laid down in the Staff Regulations and the Conditions of Employment of Other Servants of the European Union ('the CEOS'). In that regard, it is apparent from reading Article 1 and Article 1a(2) of the Staff Regulations, in conjunction with Article 3a(1)(b) of the CEOS, that those rules apply to the contract staff of an EU office, body or agency only if the act setting up that office, body or agency so provides. However, in the case of SatCen contract staff, neither Decision 2014/401 nor the SatCen Staff Regulations provide that the Staff Regulations and the CEOS are applicable.

123 It follows that, contrary to SatCen's claims, the applicant's action for annulment falls within the scope of Article 263 TFEU, and the applicant's claim that the Union's non-contractual liability should be incurred falls within that of Article 268 TFEU.

2. The plea of inadmissibility based on the contractual nature of this dispute

124 SatCen claims that this action is inadmissible, in so far as it is purely contractual in nature, since the contested decisions stem from the applicant's employment contract.

125 In that regard, it must be borne in mind that, under Article 263 TFEU, the Courts of the European Union review only the legality of acts of the institutions intended to produce legal effects vis-à-vis third parties by bringing about a distinct change in their legal position, and that that jurisdiction concerns only the acts referred to by Article 288 TFEU which the institutions must adopt under the conditions laid down in the Treaty, by exercising the powers which they hold as public authorities. By contrast, acts adopted by the institutions in a purely contractual context from which they are inseparable are, by their very nature, not among the measures covered by Article 288 TFEU annulment of which may be sought pursuant to Article 263 TFEU (see judgment of 10 April 2013, *GRP Security* v *Court of Auditors*, T-87/11, not published, EU:T:2013:161, paragraph 29 and the case-law cited).

126 According to Article 8(1) of Decision 2014/401, the SatCen staff consists in particular of contract staff. Thus, the applicant was recruited by an employment contract, which is the result of a concurrence of wills between the parties. The employment relationship between the applicant and SatCen is therefore of a contractual nature.

127 However, the applicant's employment contract was concluded with a European Union body, entrusted with public interest responsibilities and in respect of which the Council is empowered by Article 8(5) of Decision 2014/401 to adopt 'staff rules'. It was on the basis of an identical provision that the Council, within the framework of Joint Action 2001/555, by Decision 2009/747, adopted the SatCen Staff Regulations (see paragraph 11 above). According to Article 1(1) thereof, the SatCen Staff Regulations are to apply to any staff member recruited under contract by SatCen.

128 Accordingly, even though the employment relationship between SatCen and its staff members is of a contractual nature, the fact remains that those staff members are in a legal situation determined by the SatCen Staff Regulations.

129 Thus, the general provisions of the SatCen Staff Regulations, which were adopted unilaterally by the Council, which was not a party to the employment contract concluded by the applicant, apply mandatorily to the applicant and to any other member of the contract staff of SatCen and are incorporated in their employment contracts (see, to that effect and by analogy, judgment of 14 October 2004, *Pflugradt* v *ECB*, C-409/02 P, EU:C:2004:625, paragraphs 34 and 35). In that regard, it should be pointed out that, in the present case, point 14 of the offer of employment proposed to the applicant, and countersigned by her, specified that 'this offer of appointment as well as the conditions of employment are governed by the [SatCen Staff Regulations] ... and any subsequent amendments thereto, which constitute an integral part of this offer'.

130 This dispute arises from the alleged failures of the applicant to fulfil her professional obligations, such as those laid down in the SatCen Staff Regulations. Moreover, it was on the basis of the SatCen Staff Regulations that the Director of SatCen exercised his disciplinary powers vis-a-vis the applicant. Those powers fall within the competence of the Director of SatCen for all personnel matters, as is apparent from the second paragraph of Article 7(6)(e) of Decision 2014/401.

131 It follows that, by adopting the decision to reject the request for assistance, the decision to initiate disciplinary proceedings, the suspension decision and the removal decision, the Director of SatCen merely applied the SatCen Staff Regulations, which go beyond the applicant's contractual relationship with SatCen. This dispute relates to the actual legality of those decisions of the Director of SatCen and to the decision of the Appeals Board which, in essence, rejected the appeal lodged by the applicant against the decision to initiate disciplinary proceedings, the suspension decision and the removal decision.

132 The plea of inadmissibility based on the contractual nature of this dispute must therefore be rejected.

3. The plea of inadmissibility raised by SatCen against the claim for annulment of the decision to reject the request for assistance

133 SatCen contends that the claim for annulment of the decision to reject the request for assistance is inadmissible, in so far as, in essence, the applicant failed to observe the prior administrative procedure laid down in the SatCen Staff Regulations.

134 As provided in Article 28(1) to (3) of the SatCen Staff Regulations, the absence of any reply from the Director of SatCen to a request that he take a decision in matters covered by these Staff Regulations, within two months, constitutes an implied decision rejecting it, against which a complaint may be lodged within three months from the date of expiry of the period prescribed for reply.

135 Thus, where the Director of SatCen does not reply to a request for assistance for the purposes of Article 2(6) of the SatCen Staff Regulations, within the two-month period laid down in Article 28(1) of those staff regulations, it may be considered that there has been an implied decision rejecting that request for assistance. In that case, it must be presumed that the Director of SatCen considered that the evidence produced in support of the request for assistance did not constitute some evidence of the reality of the alleged facts triggering the duty of assistance, which may result in the opening of an administrative investigation where the alleged facts are classified as psychological harassment (see, by analogy, judgments of 25 October 2007, *Lo Giudice* v *Commission*, T-154/05, EU:T:2007:322, paragraph 41, and of 24 April 2017, *HF* v *Parliament*, T-570/16, EU:T:2017:283, paragraphs 53 to 57).

136 In this case, the applicant sent the Director of SatCen a request for assistance on 20 March 2013. On 22 March 2013, the Director of SatCen requested his deputy to verify the information contained in that request, at the margins of the administrative investigation of which the applicant was the subject. The Director of SatCen did not take the view that that verification of information had revealed some evidence of the reality of the alleged facts justifying the opening of an administrative investigation, as is confirmed by the letter addressed to him by the Deputy Director of SatCen on 26 August 2013 and his rejection of the applicant's complaint on 7 October 2013.

137 Accordingly, it must be held that the applicant's request for assistance, notified on 21 March 2013, was implicitly rejected within a period of two months from that date, in accordance with Article 28(1) of the SatCen Staff Regulations, that is to say on 21 May 2013 and not, as the applicant claims, on 5 July 2013. As SatCen correctly claims, that implied rejection decision should, in accordance with Article 28(2) of the SatCen Staff Regulations, have been the subject of a complaint within three months of the date of expiry of the period prescribed for reply, that is to say no later than 21 August 2013. However, it is not apparent from the documents in the case file that the applicant lodged such a complaint within the abovementioned time limits.

138 It follows from the foregoing that, in as much as it seeks the annulment of the decision to reject the request for assistance, the applicant's claim must be rejected as inadmissible.

4. The plea of inadmissibility raised by SatCen against the claim for annulment of the decision to initiate disciplinary proceedings

139 SatCen contends that an appeal against a decision to initiate disciplinary proceedings cannot be examined as such, since the decision open to challenge can only be the decision adopted at the end of the disciplinary proceedings. Accordingly, the applicant's claim for annulment of the decision to initiate disciplinary proceedings should be rejected as inadmissible.

140 The applicant disputes that line of argument and requests, in the alternative, that the legality of the decision to initiate disciplinary proceedings be examined for the purpose of the examination into the legality of the removal decision.

141 In that regard, it should be pointed out that, where a sanction has been imposed on a staff member of an EU body, the decision to initiate disciplinary proceedings against that person is merely a preparatory procedural step which does not prejudge the final position to be adopted by the administration and thus cannot be regarded as an act having an adverse effect for the purpose of Article 263 TFEU (see, by analogy, judgment of 8 July 2008, *Franchet and Byk* v *Commission*, T-48/05, EU:T:2008:257, paragraph 340 and the case-law cited).

142 The claim relating to the decision to initiate disciplinary proceedings is therefore not as such admissible, since only the final disciplinary decision, namely the removal decision, constitutes an act having an adverse effect.

143 However, the fact that an application for annulment directed against an act having no adverse effect is inadmissible does not deprive an applicant of the right to plead, in support of claims directed against a challengeable decision, the possible unlawfulness of that act (see, by analogy, judgments of 13 March 2003, *Pessoa e Costa* v *Commission*, T-166/02, EU:T:2003:73, paragraph 37 and the case-law cited). Consequently, although the claim for annulment of the decision to initiate disciplinary proceedings is inadmissible, the pleas submitted in support of that claim must be regarded as being directed against the removal decision, taken at the end of that procedure.

5. The plea of inadmissibility raised by SatCen against the arguments directed against the proceedings before the Disciplinary Board

144 In support of her first and second pleas for annulment of the removal decision, the applicant criticises the conditions under which the disciplinary proceedings before the Disciplinary Board were conducted.

145 According to SatCen, the complaints directed against the Disciplinary Board's opinion should be rejected as inadmissible, since those complaints should be regarded as being directed against the Disciplinary Board's opinion itself, which is a measure adversely affecting the applicant and was not the subject of a prior administrative complaint.

146 In that regard, it must however be observed that the judgment of 11 July 1968, *Van Eick* v *Commission* (35/67, EU:C:1968:39), on which SatCen relies, is irrelevant in so far as, in that case, the Court rejected as inadmissible heads of claim in so far as they sought the annulment of 'the procedure followed before the Disciplinary Board', in addition to the annulment of the Disciplinary Board's opinion itself.

147 Similarly, in the judgment of 29 January 1985, *F.* v *Commission* (228/83, EU:C:1985:28, paragraph 16), cited by SatCen, the Court took the view that it would be contrary to the principle of *audi alteram partem* and to the rights of the defence of the person concerned by disciplinary proceedings to find that that person may not challenge separately the Disciplinary Board's opinion and obtain its annulment, in order to have the disciplinary proceedings recommenced.

148 It is in no way apparent from those judgments that an applicant may not, in support of his claim for the annulment of a disciplinary measure taken after the Disciplinary Board has issued an opinion, rely on the irregularity of the procedure followed before the Disciplinary Board, since such a procedure constituted, in the applicant's situation, a prerequisite for the contested removal measure, as is apparent from a combined reading of Articles 7, 9 and 10 of Annex IX to the SatCen Staff Regulations.

149 Accordingly, the arguments alleging the illegality of the proceedings before the Disciplinary Board are admissible.

150 In view of the foregoing, first, the pleas of inadmissibility raised by SatCen against the claims for annulment and compensation must be rejected in their entirety. Second, this action is inadmissible in so far as it is directed against the decision to initiate disciplinary proceedings and the decision to reject the request for assistance. Third, that action is admissible in so far as it is directed against the suspension decision, the removal decision and the decision of the Appeals Board, so that it is necessary to examine the legality of those three decisions, starting with the decision of the Appeals Board.

C. Substance

1. The claim for annulment

(a) The legality of the decision of the Appeals Board

151 The applicant claims that the decision of the Appeals Board should be annulled for two sets of reasons. First, the Appeals Board infringed the applicant's right to an effective remedy (i) on account of its composition, which failed to satisfy the criteria of an independent and impartial tribunal and (ii) in so far as it ignored the majority of the legal and factual arguments that she submitted. Second, the Appeals Board, in essence, made various errors of law by dismissing the appeal lodged by the applicant.

152 Moreover, the applicant raises, on the basis of Article 277 TFEU, a plea of illegality in respect of Article 28(6) of the SatCen Staff Regulations on the ground, in essence, that that provision makes the Appeals Board the only body with jurisdiction to review the legality of the decisions of the Director of SatCen.

153 SatCen contends that the claims for the annulment of the decision of the Appeals Board should be rejected in so far as the Appeals Board provides sufficient guarantees to ensure that the applicant's right to an effective remedy is observed. Its decisions can therefore be final and binding, as provided for in Article 28(6) of the SatCen Staff Regulations.

154 It is necessary to examine at the outset the plea of illegality of Article 28(6) of the SatCen Staff Regulations, raised by the applicant.

155 According to settled case-law, Article 277 TFEU expresses a general principle conferring upon any party to proceedings the right to challenge indirectly during the proceedings, for the purpose of obtaining the annulment of an individual decision, the validity of previous acts of the institutions which form the legal basis of that individual decision (see judgment of 19 June 2015, *Italy* v *Commission*, T-358/11, EU:T:2015:394, paragraph 180 and the case-law cited).

156 Since the purpose of Article 277 TFEU is not to enable a party to contest the applicability of any act of general application in support of any action whatsoever, the scope of a plea of illegality must be limited to what is necessary for the outcome of the proceedings. It follows that the general measure claimed to be illegal must be applicable, directly or indirectly, to the issue with which the action is concerned and there must be a direct legal connection between the contested individual decision and the general measure in question. In that regard, the existence of such a link may be inferred, inter alia, from the finding that the measure against which the main action has been brought is essentially based on a provision of a measure whose legality is contested (see judgment of 27 October 2016, *ECB* v *Cerafogli*, T-787/14 P, EU:T:2016:633, paragraph 44 and the case-law cited).

157 The finding of illegality made by the court does not have *erga omnes* effect, but entails the illegality of the individual contested decision, whilst leaving the act of general application in the legal order without affecting the legality of other acts which have been adopted pursuant thereto and which were not challenged within the period for appeal (see, to that effect, judgment of 21 February 1974, *Kortner and Others* v *Council and Others*, 15/73 to 33/73, 52/73, 53/73, 57/73 to 109/73, 116/73, 117/73, 123/73, 132/73 and 135/73 to 137/73, EU:C:1974:16, paragraphs 37 and 38).

158 In the present case, Article 28(6) of the SatCen Staff Regulations, which the applicant claims is illegal, provides inter alia that the Appeals Board has authority to annul or confirm decisions of the Director of SatCen adopted on the basis of those staff regulations, and to compensate certain damage sustained by a staff member following an illegal decision of the Director of SatCen (see paragraph 13 above). That provision further specifies that decisions of the Appeals Board are to be 'binding on both parties' and that there is to be 'no appeal from them'.

159 However, it is apparent from the examination of the General Court's jurisdiction to rule on this dispute that the Council could not, without infringing the provisions of Article 19 TEU and of Article 256 TFEU, confer on the Appeals Board mandatory and exclusive jurisdiction to review the legality of the decisions of the Director of SatCen, and to rule on claims by its staff members for compensation, in a situation where, as in the present case, it is the General Court which has jurisdiction to hear and determine, at first instance, that type of dispute (see paragraphs 101 to 110 above).

160 Accordingly, by setting up, by Decision 2009/747, an Appeals Board whose jurisdiction is exclusive and concurrent with that of the General Court, and by maintaining that appeals board even after the entry into force of the Lisbon Treaty, the Council infringed the Treaties, in particular Article 19 TEU and Article 256 TFEU mentioned above. It is therefore necessary to uphold the plea of illegality and to declare inapplicable to the case in point Article 28(6) of the SatCen Staff Regulations.

161 Consequently, the decision of the Appeals Board, adopted on the basis of the powers conferred on it by that provision, has no legal basis, and it must therefore be annulled, without there being any need to adjudicate on the other pleas relied on by the applicant against the decision of the Appeals Board.

162 The illegality of the decision of the Appeals Board moreover has no bearing on whether the applicant observed the time limit for bringing an action, as regards the suspension decision and the removal decision.

163 It is true that, by virtue of this judgment, the decision of the Appeals Board is retroactively excluded from the legal order, so that the General Court is faced with an action brought after the two-month period laid down in the sixth paragraph of Article 263 TFEU extended on account of distance by 10 days as provided in Article 60 of the Rules of Procedure. Although the suspension decision and the removal decision were notified to the applicant on 5 July 2013 and 4 March 2014, respectively, this action was brought on 28 May 2015.

164 However, according to settled case-law, in the context of Article 263 TFEU, the admissibility of the action must be assessed by reference to the situation prevailing at the time when the application was lodged (judgments of 27 November 1984, *Bensider and Others* v *Commission*, 50/84, EU:C:1984:365, paragraph 8, and of 18 April 2002, *Spain* v *Council*, C-61/96, C-132/97, C-45/98, C-27/99, C-81/00 and C-22/01, EU:C:2002:230, paragraph 23).

165 On the date when this action was brought, the illegality of Article 28(6) of the SatCen Staff Regulations had not been established by the General Court. Accordingly, the referral to the Appeals Board, adjudicating in accordance with powers conferred on it by that provision, was founded on a legal basis and constituted a legal remedy offering the applicant, in principle, a means of remedying her situation, since it could not be ruled out *a priori* that the Appeals Board would annul the contested decisions of the Director of SatCen. According to settled case-law, measures of the EU institutions are

in principle presumed to be lawful and accordingly produce legal effects until such time as they are withdrawn, annulled in an action for annulment or declared invalid following a reference for a preliminary ruling or a plea of illegality (see judgment of 6 October 2015, *Schrems*, C-362/14, EU:C:2015:650, paragraph 52 and the case-law cited).

166 Accordingly, it cannot be found, in particular with regard to the right to an effective legal remedy enshrined in Article 47 of the Charter, that the referral to the Appeals Board with respect to the suspension decision and the removal decision could result in the applicant's being barred from challenging before the General Court those decisions, which were, in essence, confirmed by the decision of the Appeals Board (see, by analogy, judgment of 21 February 2018, *LL* v *Parliament*, C-326/16 P, EU:C:2018:83, paragraph 35).

167 In those circumstances, the time limit for bringing an action against the suspension decision and the removal decision started to run with regard to the applicant only on 23 March 2015, the date on which the decision of the Appeals Board was notified to her. Thus, by bringing this action against the suspension decision and the removal decision on 28 May 2015, the applicant observed the two-month period laid down in the sixth paragraph of Article 263 TFEU extended on account of distance by 10 days as provided in Article 60 of the Rules of Procedure.

(b) The legality of the removal decision

168 In support of her claim for annulment of the removal decision, the applicant relies on five pleas in law. The first plea alleges infringement of the principle of sound administration and of the requirement of impartiality during the administrative investigation (first part) and during the proceedings before the Disciplinary Board (second part). The second plea alleges infringement of the procedural rules and of the rights of the defence during the administrative investigation (first part) and during the proceedings before the Disciplinary Board (second part). The third plea alleges infringement of the principle of the presumption of innocence. The fourth plea alleges failure to establish the reality of the facts alleged. The fifth plea alleges a misuse of powers.

169 By the first part of her first plea and by the first part of her second plea, the applicant seeks to call into question the administrative procedure investigation. The Court therefore considers it appropriate to examine those two parts together, alleging infringement of the principle of sound administration and of the requirement of impartiality during the administrative investigation, and infringement of the procedural rules and of the rights of the defence during that investigation, respectively.

(1) The lawfulness of the administrative investigation

170 As a preliminary point, it should be recalled that, according to Article 27(2) of the SatCen Staff Regulations, where the Director of SatCen becomes aware of evidence of failure of a staff member to fulfil his obligations laid down in those staff regulations, he may launch an administrative investigation to verify whether such failure has occurred.

171 As provided in Article 1(1) of Annex IX to the SatCen Staff Regulations:

'Whenever an internal investigation reveals the possibility of the personal involvement of a staff member, or a former staff member, that person shall rapidly be informed, provided this is not harmful to the investigation. In any event, conclusions referring by name to a staff member may not be drawn once the investigation has been completed without that staff member having been given the opportunity to comment on facts concerning him. The conclusions shall make reference to these comments.'

172 Article 2 of Annex IX to the SatCen Staff Regulations provides:

'On the basis of the investigation report, after having notified the staff member concerned of all evidence in the files and after hearing the staff member concerned, the Director may: ... (c) in the case of failure to comply with obligations within the meaning of Article 27 of the Staff Regulations: (i) decide to initiate the disciplinary proceedings provided for in Section 4 of this Annex; or (ii) decide to initiate disciplinary proceedings before the Disciplinary Board.'

173 Where disciplinary proceedings are initiated before the Disciplinary Board, the Director, as provided in Article 10 of Annex IX to the SatCen Staff Regulations, is to submit a report to the Disciplinary Board, stating clearly the facts complained of and, where appropriate, the circumstances in which they arose, including any aggravating or extenuating circumstances. The report submitted to the Disciplinary Board is adopted after hearing the staff member concerned at the end of the investigation and is only intended to set out the facts, with regard in particular to developments at that hearing, and to relate them to the obligations or provisions of the Staff Regulations which that staff member is alleged to have infringed (see, by analogy, judgment of 10 June 2016, *HI* v *Commission*, F-133/15, EU:F:2016:127, paragraph 131).

174 The administrative investigation is therefore aimed at determining what the facts alleged against the person concerned and the circumstances surrounding those facts are and at enabling the Director of SatCen to assess, *prima facie*, their accuracy and seriousness, in order to reach an opinion on whether it is appropriate to refer the matter to the Disciplinary Board with a view to adopting, where appropriate, a disciplinary measure.

175 The authority responsible for an administrative investigation has, as is apparent from the case-law, broad discretion in the conduct of the investigation (see, to that effect and by analogy, judgments of 16 May 2012, *Skareby* v *Commission*, F-42/10, EU:F:2012:64, paragraph 38; of 11 July 2013, *Tzirani* v *Commission*, F-46/11, EU:F:2013:115, paragraph 124; and of 18 September 2014, *CV* v *EESC*, F-54/13, EU:F:2014:216, paragraph 43).

176 In that regard, it should be recalled that EU law requires that administrative procedures are conducted in compliance with the guarantees conferred by the principle of sound administration, enshrined in Article 41 of the Charter. Those guarantees include the obligation for the competent institution to examine carefully and impartially all the relevant elements of the individual case. The right of every person to have his affairs treated impartially encompasses, on the one hand, subjective impartiality, in so far as no officer of the institution concerned who is responsible for the matter may show bias or personal prejudice, and, on the other hand, objective impartiality, in so far as there must be sufficient guarantees to exclude any doubt as to bias on the part of the institution concerned (see judgment of 11 July 2013, *Ziegler* v *Commission*, C-439/11 P, EU:C:2013:513, paragraph 155 and the case-law cited; see also, to that effect, judgment of 11 May 2010, *Nanopoulos* v *Commission*, F-30/08, EU:F:2010:43, paragraph 189).

177 Moreover, the right to sound administration includes, as provided in Article 41(2)(a) and (b) of the Charter, the right of every person to be heard before the adoption of an individual measure which might affect him or her adversely, and the right of every person to have access to his or her file. As regards the conduct of administrative investigations within SatCen, those rules are reflected in Article 1(1) and Article 2 of Annex IX to the SatCen Staff Regulations, referred to in paragraphs 171 and 172 above, respectively.

178 It is in the light of those considerations that it is necessary to examine together the first part of the first plea and the first part of the second plea, by which the applicant challenges (i) the choice of her superior to conduct the administrative investigation concerning her; (ii) the use of a multiple-choice

questionnaire referring to her by name as part of the way in which the administrative investigation was conducted; (iii) the fact that she was not involved in the administrative investigation and (iv) the refusal to grant timely access to the evidence in the administrative investigation files.

(i) The choice of the investigator

179 The applicant disputes the appointment of her superior, the Deputy Director of SatCen, to conduct the administrative investigation concerning her. According to the applicant, he lacked the objective impartiality to carry out the investigation, in so far as he had always shown prejudice, bias and hostility in his professional dealings with her.

180 In that regard, the applicant submits, first of all, that she had implicated the Deputy Director of SatCen in two requests for assistance on account of the psychological harassment she encountered. The applicant also claims to have been insulted and attacked in meetings in the presence of the Director of SatCen and of his deputy, as well as in her three annual appraisal reports, which that deputy drafted. The hostility of the Deputy Director of SatCen towards the applicant is further demonstrated by the fact that he, together with the Director of SatCen, removed responsibilities from her arbitrarily, 'despite [her] undisputed professional competence'.

181 In that regard, it should first of all be noted that it is not apparent from the evidence in the files that the Deputy Director of SatCen arbitrarily removed the applicant's responsibilities, or that the applicant was insulted in his presence, and such claims are not substantiated other than by notes drafted by the applicant herself. Furthermore, even on the assumption that those statements must be ascribed some probative value, it must be observed that the Deputy Director of SatCen is not implicated in them directly, either as having removed responsibilities from the applicant, or as having witnessed insults against her, which he might have tolerated.

182 Next, the applicant fails to show how her annual appraisal reports are full of insults and attest to the bias and hostility of the Deputy Director of SatCen. Contrary to what the applicant appears to state, the evaluation — even if it is critical — of the performance of a staff member graded by a superior, cannot be placed on the same footing as insulting comments and cannot as such demonstrate the bias of the superior in question.

183 Lastly, to the extent that the applicant submits that it was inappropriate to appoint the Deputy Director of SatCen as investigator, since he was referred to in two requests for assistance from her, that line of argument must be rejected.

184 It should be noted that the Deputy Director of SatCen was not implicated by the applicant in her comments on her annual appraisal, which she wrote on 30 May 2011. The applicant stated indeed, subsequently, on 7 March 2013, that no action had been taken on her complaint of 2012, according to which she felt that she was a victim of psychological harassment by the Head of Finance, rather than by the Deputy Director of SatCen.

185 Moreover, the Deputy Director of SatCen was appointed by the Director of SatCen to conduct the administrative investigation on 8 March 2013, that is to say prior to the sending, on 20 March 2013, of the applicant's second request for assistance, by which it is alleged that the applicant called the conduct of the Deputy Director of SatCen into question.

186 In any event, it is appropriate to recall the wording of the applicant's second request for assistance, in which the investigator's name appears:

'I hereby formally ask you to take measures to have the mobbing against me and my function stopped …

I ask you in particular that [the Head of Finance] stops observing and interviewing the staff of my division on internal division matters ... and stops reporting his biased opinion. While I linked the situation of humiliation only to him in September 2012, I can now see a "ganging-up" of some co-workers who seem to influence more colleagues, including the Deputy Director, via rumours and discrediting me.'

187 Contrary to what the applicant states, such wording is not aimed at implicating the Deputy Director of SatCen directly in the situation in which the applicant claims to be a victim, but the Head of Finance. So far as concerns the Deputy Director of SatCen, who was appointed to conduct the investigation, the applicant merely claimed that he might have been influenced by the opinion of the Head of Finance. Accordingly, the applicant's request for assistance is insufficient to establish the bias of the investigator.

188 Consequently, it is not sufficiently clear from the material in the case file that the appointment of the investigator could have given rise to legitimate fears on the part of the applicant as to his objective impartiality to conduct the investigation.

(ii) The use of a multiple-choice questionnaire regarding the applicant in the context of the administrative investigation

189 The applicant calls into question the manner in which the administrative investigation was carried out and claims that, during that investigation, SatCen infringed the principle of sound administration and the requirement of impartiality deriving therefrom.

190 The applicant takes issue with the fact that the investigator requested various SatCen staff members to fill out a multiple-choice questionnaire, whose heading referred to her by name, associating her with the concept of bullying. The applicant adds that the multiple-choice questions in that questionnaire were leading and highly suggestive. Thus, in her submission, sending out a questionnaire was, in itself, an inappropriate way to establish the facts.

191 In that respect, according to the applicant, the objective of an administrative investigation relating to possible disciplinary breaches entails collecting all precise and relevant evidence. However, in the present case, the administrative investigation report does not set out specific incidents and demonstrates that the investigator simply collected the replies to the questionnaire and reproduced the general allegations made therein.

192 In the applicant's view, it follows that the administrative investigation was biased and, therefore, infringed the principle of sound administration and the requirement of impartiality.

193 SatCen contests the applicant's line of argument and notes that the questionnaire contained two open questions, the replies to which should be read in conjunction with the replies to the multiple-choice questionnaire.

194 In the present case, it should be recalled that, on 14 November 2012, a complaint was referred to the Director of SatCen. That complaint was signed by 12 staff members and read as follows:

'We all, in one way or another, have witnessed how [KF] has acted in a biased way when taking decisions depending on who the request is for, applying rules at a whim, we have observed harassment and abuse of certain members of staff. We have also been subject to interference in our professional work in issues in which she is not the expert. All this makes our daily tasks difficult and less effective than they should be. It is not normal that this SatCen employee clashes on a daily basis with one of us and we relish the fact that she is going to be absent from the office. Criticism against our colleagues is constant and the working environment is a disaster and even harmful. We are aware

that other members of staff at SatCen are conscious of the situation and could possibly provide you with more evidence that supports our claim. Our aim is, once all the evidence has been checked, that you take the necessary action in order to ensure that this type of behaviour, so distant from the spirit of the EU, never happens again.'

195 The Director of SatCen thus initiated, on 8 March 2013, an administrative investigation. According to the investigation report, that investigation was justified by 'the extreme seriousness of the situation [of which the Director of SatCen was made aware, showing the applicant's] failure to comply with the obligations of [the SatCen Staff Regulations]', and was intended to 'collect facts to establish a possible psychological harassment and bullying [by the applicant] towards the personnel under her direct authority'.

196 The administrative investigation consisted in sending 24 SatCen staff members, on 12 June 2013, a multiple-choice questionnaire, entitled 'Bullying Questionnaire' and stating: 'please answer the following questions aiming at ascertaining the existence of possible bullying behaviours of [KF] against you'. The questionnaire was in the form of the following table, and contained boxes to be ticked corresponding to categories of conduct allegedly adopted by the applicant in relation to them:

	Question	Answer		
		No	Occasionally	Frequently
1	Lack of or scant recognition, no confidence towards others			
2	Scant participation in decisions			
3	Lack of or poor communication/ information			
4	Lack of performance feedback			
5	Offensive or degrading comments, pressure, offensive behaviour, inappropriate reactions			
6	Insults relating to my personal or professional competence			
7	Insults or threatening remarks, both oral and written			
8	Intimidation, pressure			
9	Threats of retaliation			
10	Belittling my contributions and achievements			

11	Being isolated, set apart, excluded, rejected, ignored, disparaged or humiliated			
12	Impairing my social relations			
13	Setting manifestly unattainable tasks/working objectives			
14	Not receiving any work or receiving work which does not meet the profile of my job			

197 The addressees of the questionnaire were also questioned on whether, in the event that they had been exposed to one of those types of behaviour, such behaviour had entailed any of the following consequences, which were also presented in the form of a table containing boxes to be ticked:

	Question	Answer		
		No	Partially	Yes
15	Becoming isolated and social relationships tending to deteriorate			
16	Making more and more mistakes, can no longer concentrate, become less productive, demotivated			
17	Your professional development hindered, career jeopardised			
18	Suffer mental and physical health problems such as stress, anxiety, shame, demoralisation			
19	Humiliation, disorientation, somatic disorder, depression or increasingly serious physical and psychological disorders			
20	Erosion of workplace rules			
21	Increased friction			
22				

	Magnification of minor problems			

198 As is apparent from the provisions and from the case-law referred to in paragraphs 170 to 177 above, the administrative investigation following allegations of failure to comply with professional obligations as regards a SatCen staff member is intended to establish the accuracy of the facts alleged against that staff member and must, therefore, consist in a careful and impartial search of all the precise and relevant evidence relating to the case in point. In the light of the wording of the complaint referred to the Director of SatCen, which calls into question the applicant's overall conduct, by classifying it, inter alia, as 'harassment', it was for the investigator to request the complainants to substantiate the facts alleged, and to assess the detailed and consistent nature thereof before, if necessary, classifying them legally.

199 The investigator sent the complainants, as well as other SatCen staff members, a 'Bullying Questionnaire', containing multiple choice entries corresponding, in essence, to general categories of conduct liable to constitute 'psychological harassment'.

200 Such an initiative was therefore intended not to seek to establish the accuracy of precise facts alleged, but to ask the addressees of the questionnaire to convey their feelings, in a general and abstract manner, on categories of behaviour by the applicant that they considered they had observed.

201 It is true that SatCen had a broad discretion regarding even whether to initiate an investigation and concerning how to carry it out in practical terms. However, by sending to persons working on a daily basis with the applicant a multiple-choice questionnaire, relating to her and referring to her by name, SatCen did not act with the prudence and care necessary in a dispute between an EU body and one of its staff members. Such an initiative could only aggravate the working relationship between the applicant and her colleagues, whether superiors or subordinates, even before it had been possible to establish objectively the accuracy of precise facts. Other methods would have been more appropriate to enable the Deputy Director to evaluate the applicant's behaviour, inter alia by bilateral interviews with the persons who had sent a complaint, in order to hear in a calm and objective manner the reasons they were putting forward and by direct interviews with the applicant. If necessary, it was at the end of such interviews that it was for the Deputy Director to determine whether certain types of behaviour had occurred which were capable, in the light of their sustained, repetitive or systematic nature, and of their effects, of constituting psychological harassment or, at the very least, a failure by the applicant to comply with her professional obligations.

202 The use of such a multiple-choice questionnaire for the purpose of establishing the reality of the harassment accusations, which was sent by the investigator to 24 SatCen staff members, must therefore be considered manifestly inappropriate and, therefore, contrary to the duty of care which must prevail in the conduct of an administrative investigation.

203 It is true, as SatCen points out, that the staff members questioned were also requested to reply to two open questions alongside the multiple-choice questionnaire. However, it is apparent from the actual wording of those two questions that they are not capable of calling into question the manifestly inappropriate nature of that questionnaire. By the first open question, staff members were asked to report any fact or event relating to the boxes of the questionnaire that they had ticked. Any replies to that question were therefore indissociably linked with the general categories of wrongful conduct set out in the questionnaire. Moreover, by the second open question, the staff members questioned were requested to state whether they had witnessed behaviour by the applicant constituting psychological harassment towards other SatCen staff members. By sending such a question, SatCen therefore started from the assumption that the behaviour described in reply to that question could, before being objectively examined, be classified as psychological harassment by the staff members questioned themselves.

204 In any event, it is apparent from the evidence in the files that the conclusions of the investigation report, according to which the actual nature of the conduct alleged against the applicant is established, are based solely on general categories of behaviour ascribed to the applicant, without citing any precise evidence which might have emerged from the staff members' replies to the two open questions.

205 Moreover, as the applicant correctly claims, the investigator, the Deputy Director of SatCen, lacked prudence by associating the applicant's name with a 'Bullying Questionnaire'. Such an approach is liable to call into question the subjective impartiality of the Deputy Director of SatCen, in so far as, by acting in that manner, he alluded to the applicant's responsibility based on legally classified disciplinary breaches, even though she had not at that stage been heard, and even though it had not yet been decided to initiate disciplinary proceedings.

206 In view of the foregoing, it cannot be considered that the administrative investigation was seriously aimed at establishing the precise facts by seeking with care and impartiality all the evidence relevant to the case in point. In those circumstances, it must be held that SatCen failed to act with all the necessary care that an EU body owes to its staff members by adopting measures proportionate and appropriate to the circumstances of the present case.

207 In the light of the foregoing, the Court concludes that SatCen infringed the principle of sound administration, the duty of care and the requirement of impartiality in the conduct of the administrative investigation.

(iii) The applicant's lack of involvement in the administrative investigation

208 The applicant also complains that SatCen did not involve her in the administrative investigation, in breach of her right to be heard and of Article 1(1) of Annex IX to the SatCen Staff Regulations.

209 In that regard, the applicant submits that she received no information about the investigation between March 2013, when the investigation began, and July 2013, when she was informed, for the first time, of the way in which that investigation had been carried out. Moreover, although the applicant was summoned for the first time on 2 July 2013, she notes that, on that date, the conclusions of the investigation had already been finalised.

210 According to the applicant, she should have been heard, made aware of the details of the incidents alleged against her and granted sufficient time to examine those details.

211 In the present case, it is apparent from the evidence in the files that the Director of SatCen informed the applicant of the initiation of an administrative investigation concerning her by memorandum of 4 April 2013, citing Article 27 of the SatCen Staff Regulations.

212 The Director of SatCen sent the applicant the conclusion of the investigation report, by email of 3 July 2013, at 16:56. In that email, the Director of SatCen invited the applicant to a hearing, on 5 July 2013, at 10:00, and to provide her comments on the conclusion of the investigation report.

213 As set out in those conclusions, the Deputy Director of SatCen found that staff members working in the immediate environment of the applicant had 'clearly confirm[ed] different aspects characterising psychological harassment', on the ground that a number of those staff members had, with respect to several general categories of types of behaviour listed in the multiple-choice questionnaire, ticked the box 'frequently' (namely the following categories: 'lack of or scant recognition, no confidence towards others', ticked six times; 'offensive or degrading comments, pressure, offensive behaviour, inappropriate

reactions', ticked seven times; 'insults relating to personal/professional competence', ticked three times; 'insulting or threatening remarks', ticked three times; 'intimidation, pressure', ticked seven times; 'belittling contributions', ticked three times; 'humiliation feeling', ticked four times).

214 Moreover, as regards staff members not working directly with the applicant, the Deputy Director of SatCen stated, in the investigation report, that 'the following statements have been reported: permanent micro-management not relevant at A4 [staff member] level, no confidence in people leading to a continuous counter-check, on different occasions publicly blaming people whatever their function, conveying rumours on non-action of internal actors, magnification of minor problems, inappropriate initiatives and sometimes not respecting [Director] and [Deputy Director] decisions'.

215 According to the investigation report, the Deputy Director of SatCen inferred from that evidence that it was 'determined that the conduct of [KF] [was] abusive, intentional, repetitive, sustained or systematic, intended to discredit or undermine the people concerned', and that 'these behaviours alleged to [KF] [were] confirmed and, regarding [their] nature, frequency and effect on certain staff members, constitute[d] moral harassment'.

216 It should be noted that the conclusions of the investigation report, which consider that it is established that facts constituting psychological harassment occurred, are written in particularly general and imprecise terms, making reference solely to general categories of conduct ascribed to the applicant, without citing any specific incident, which made it difficult for the applicant to exercise her rights of defence. Moreover, the applicant was given less than 48 hours to submit her comments on that report, concerning particularly serious facts alleged against her and concluding an investigation started several months beforehand. In those circumstances, it cannot be considered that SatCen heard the applicant properly before conclusions were drawn by the Director of SatCen, in the light of the investigation report.

217 The applicant is therefore entitled to complain that SatCen infringed the rule that conclusions may be drawn from an administrative investigation by the Director of SatCen only after the staff member concerned has benefited from a prior and proper hearing, provided for in Article 1(1) and Article 2 of Annex IX to the SatCen Staff Regulations (see paragraphs 171 and 172 above), a rule which constitutes a specific application of the general principle of protection of the rights of the defence, enshrined, moreover, in Article 41(2)(a) of the Charter (see paragraph 177 above).

(iv) Whether the applicant had timely access to the evidence in the files of the administrative investigation

218 According to the applicant, the evidence in the investigation file on which the Director of SatCen relied to adopt the decision to initiate disciplinary proceedings was sent to her only in October 2013, thus after the actual adoption of that decision, on 5 July 2013. Therefore, the applicant did not have sufficient information to identify the allegations made against her, or to respond to them in a meaningful way, with the result that the decision to initiate disciplinary proceedings infringed Article 2 of Annex IX to the SatCen Staff Regulations.

219 In the present case, it must be stated that, as is apparent from the minutes of the meeting of 5 July 2013, and as SatCen acknowledged at the hearing, the evidence referred to in the administrative investigation report was not sent to the applicant before the adoption, on the same date, of the decision to initiate disciplinary proceedings concluding the administrative investigation stage.

220 As indicated in those minutes, the Director of SatCen considered that the applicant could not, at that stage, have access to the questionnaires filled out and signed by the SatCen staff members on account of data protection rules and of fears of possible retaliation against staff members who had provided witness statements.

221 In that regard, it has, admittedly been held that the administration is required, in the context of an administrative investigation carried out following a complaint, to balance two rights which may be inconsistent, namely the right of the person who is the subject of the complaint to exercise his rights of defence and the right of the complainant to have his complaint examined properly, this right of the complainant being reflected in a duty of confidentiality imposed on the administration, pursuant to which it is required to refrain from taking any step likely to jeopardise the results of the investigation (see, by analogy, judgment of 13 December 2012, *Donati* v *ECB*, F-63/09, EU:F:2012:193, paragraph 171).

222 However, such a balancing of inconsistent rights had not been carried out in the present case, in so far as the results of the administrative investigation had already been obtained, so that the proper conduct of that investigation could not have been jeopardised by disclosure of the witness statements to the applicant. That is the reason why Article 2 of Annex IX to the SatCen Staff Regulations provides, in clear and unconditional terms, that the Director of SatCen is required to communicate to any person who is the subject of an investigation all evidence in the files between the end of that investigation and the adoption of the decision to initiate disciplinary proceedings (see paragraph 172 above).

223 In any event, even on the assumption that the administration's duty of confidentiality might have justified a restriction of the applicant's rights of defence, the Director of SatCen did not even envisage granting the applicant access to the witness statements in question, after having anonymised them. However, such a possibility had been expressly provided for by the Deputy Director of SatCen who, by sending the questionnaire to the SatCen staff members who were the addressees in the context of the investigation, had taken care to specify to them: 'the first page contains your name, date and signature (investigator and interviewee) and can be totally separated from the questionnaire itself … if necessary to protect the interviewee'.

224 In the light of the foregoing, the applicant is entitled to submit that, by not communicating to her the evidence in the files before adopting the decision to initiate disciplinary proceedings, the Director of SatCen infringed her right of access to the file, as laid down in Article 41(2) of the Charter, and recalled in Article 2 of Annex IX to the SatCen Staff Regulations (see paragraphs 172 and 177 above).

(2) The consequences of the irregular nature of the administrative investigation

225 According to settled case-law, in order that a procedural irregularity may justify the annulment of an act, it is necessary that had it not been for that irregularity, the outcome would have been different (see judgment of 18 September 2015, *Wahlström* v *Frontex*, T-653/13 P, EU:T:2015:652, paragraph 21 and the case-law cited). In the context of that examination, it has been held that it is necessary to take account of all the circumstances of the case and, in particular, of the nature of the allegations and the scale of the procedural irregularities committed in relation to the guarantees which the staff member may have been given (see judgment of 15 April 2015, *Pipiliagkas* v *Commission*, F-96/13, EU:F:2015:29, paragraph 65 and the case-law cited).

226 In the present case, it was established, in the context of the examination of the merits of the first part of the first plea and of the first part of the second plea, that, in its conduct of the administrative investigation concerning the applicant, SatCen had (i) infringed the obligation to conduct the administrative investigation with care and impartiality and (ii) infringed the applicant's right to be heard and her right of access to the file.

227 As was noted in paragraphs 171 to 173 above, the disciplinary proceedings set up by Annex IX to the SatCen Staff Regulations provide for two distinct stages. The first stage consists in the holding of a careful and impartial administrative investigation, initiated by a decision of the Director of SatCen, followed by the drafting of an investigation report and closed, after the person concerned has been heard on the facts alleged against him, by conclusions drawn from that report. The second stage

consists in the disciplinary proceedings proper, initiated by that director on the basis of that investigation report, and consists either in the initiation of disciplinary proceedings without consultation of the Disciplinary Board, or in the matter being referred to that board, on the basis of a report drawn up by the Director of SatCen in the light of the conclusions of the investigation and of the comments submitted by the person concerned in relation to that investigation.

228 It follows that the administrative investigation affects the exercise by the Director of SatCen of his discretion as to the action to be taken further to that investigation and that that action may result, *in fine*, in the imposition of a disciplinary measure. It is on the basis of that investigation and of the hearing of the staff member concerned that the Director of SatCen assesses, first, whether or not it is necessary to initiate disciplinary proceedings, second, whether or not those proceedings must, as the case may be, consist in the matter being referred to the Disciplinary Board and, third, where he initiates proceedings before the Disciplinary Board, the facts referred to that board.

229 Accordingly, since the powers of the Director of SatCen are not circumscribed, it cannot be ruled out that, if the administrative investigation had been conducted with care and impartiality, that investigation might have resulted in a different initial assessment of the facts and, thus, led to different consequences, so that a decision less severe than the removal decision of the applicant might have been taken (see, by analogy, judgment of 14 February 2017, *Kerstens* v *Commission*, T-270/16 P, not published, EU:T:2017:74, paragraph 82).

230 In addition, by not affording the applicant the opportunity to put forward her point of view to useful effect at the end of the administrative investigation, SatCen deprived her of the possibility of persuading the Director of SatCen that a different initial assessment of the facts, decisive for the further development of the procedure, was possible. It cannot be accepted that, in the circumstances of the present case, the Director of SatCen would have adopted the decision to initiate disciplinary proceedings, which led to the adoption of the removal decision, if the applicant had been afforded the opportunity to submit her observations to useful effect on the investigation report and on the evidence in the investigation files. Such an approach would have the effect of rendering meaningless the fundamental right to be heard and the fundamental right of access to the file, enshrined in Article 41(2)(a) and (b) of the Charter respectively, since the very content of those rights implies that the person concerned must have the possibility of influencing the decision-making process at issue (see, by analogy, judgment of 14 September 2011, *Marcuccio* v *Commission*, T-236/02, EU:T:2011:465, paragraph 115).

231 In the light of the foregoing, the applicant's claim for annulment of the removal decision must be upheld, without there being any need to examine the other pleas raised in support thereof.

(c) The legality of the suspension decision

232 The applicant challenges the legality of the suspension decision, relying, in essence, on three pleas, alleging, respectively, infringements of the principle of sound administration and of the requirement of impartiality, of her rights of defence and of her right to the presumption of innocence.

233 The Court considers it appropriate to examine at the outset the second plea, by which the applicant disputes the fact that the suspension decision was adopted even though all the evidence forming the basis of the conclusions of the administrative investigation had not been communicated to her. She claims that that failure to communicate the evidence in the files before the adoption of the suspension decision infringes her rights of defence and Article 2 of Annex IX to the SatCen Staff Regulations.

234 In that regard, it should be noted that Article 2 of Annex IX to the SatCen Staff Regulations, the infringement of which is alleged by the applicant, relates to the conclusions that the Director of SatCen might draw from an administrative investigation, among which the suspension of a staff

member, which is provided for in Article 18 of that annex, does not appear. Therefore, the argument alleging a failure to communicate the evidence in the files, in breach of Article 2 of Annex IX to the SatCen Staff Regulations, must, to the extent that it is directed against the suspension decision, be rejected.

235 The fact remains that the decision suspending a staff member based on Article 18 of Annex IX to the SatCen Staff Regulations, which is taken when an allegation of serious misconduct has been made, constitutes an individual measure having an adverse effect which must, therefore, be adopted in compliance with the rights of the defence, in particular the right to be heard. Consequently, unless special circumstances are duly established, a decision to suspend may be adopted only after the staff member concerned has been put in a position effectively to make known his views on the evidence relied on against him and on which the competent authority proposes to base that decision (see, by analogy, judgments of 16 December 2004, *De Nicola* v *EIB*, T-120/01 and T-300/01, EU:T:2004:367, paragraph 123, and of 16 December 2015, *DE* v *EMA*, F-135/14, EU:F:2015:152, paragraph 57).

236 In that regard, it is apparent from the provisions of Article 41(2)(b) of the Charter that every person has a right to have access to his or her file, while respecting the legitimate interests of confidentiality and of professional and business secrecy. It follows from this that a SatCen staff member has a right of access to information held by his employer that might enable him to understand the substance of the allegations justifying the suspension, so that he can demonstrate, inter alia, that the conduct referred to does not fall within the scope of his responsibility, that it is not sufficiently serious to justify a suspension decision, that it is not sufficiently probable or that the allegations are manifestly unfounded, so that the suspension of the member of staff in question is unlawful (see, by analogy, judgment of 13 December 2012, *AX* v *ECB*, F-7/11 and F-60/11, EU:F:2012:195, paragraph 101). Moreover, in order to ensure that the right to be heard, guaranteed by Article 41(2)(a) of the Charter, is observed, it is also necessary that the administration informs the staff member concerned, in sufficient detail, at the stage when that person is called upon to submit his observations, what action that administration may take on the basis of the information in question (judgment of 5 October 2016, *ECDC* v *CJ*, T-395/15 P, not published, EU:T:2016:598, paragraph 60).

237 In the present case, as was noted in paragraph 219 above, the suspension decision, adopted at the same time as the decision to initiate disciplinary proceedings, and in respect of the same facts, was not preceded by the communication to the applicant of the relevant information held by the Director of SatCen, namely the annexes to the investigation report. Unlike the circumstances of the case which gave rise to the judgment of 13 December 2012, *AX* v *ECB* (F-7/11 and F-60/11, EU:F:2012:195), relied on by SatCen, the non-disclosure of that material cannot, in the present case, be justified by the need to protect the effectiveness of the administrative investigation, in so far as, at the time of the adoption of the suspension decision, the Deputy Director of SatCen had completed his investigations and handed over his investigation report to the Director of SatCen.

238 Moreover, it is not apparent from the evidence in the files that, before the adoption of the suspension decision, the Director had informed the applicant of his intention to adopt such a measure with respect to her. The email of 3 July 2013, by which that director invited the applicant to a hearing, referred solely to Article 2 of Annex IX to the SatCen Staff Regulations, relating to disciplinary action to be carried out following an administrative investigation regarding a staff member, and not to the suspension of that staff member.

239 It follows that, by not informing the applicant about the planned suspension measure and by failing to communicate to her material to which the investigation report referred, SatCen infringed her right to be heard and her right of access to the file, as enshrined in Article 41(2)(a) and (b) of the Charter.

240 As was noted in paragraph 230 above, the right to be heard and the right of access to the file, as enshrined in Article 41(2)(a) and (b) of the Charter, imply that the person concerned must have the possibility of influencing the decision-making process at issue. Accordingly, unless those fundamental

rights are to be devoid of substance, it cannot be ruled out that, if she had had access to the documents on which the suspension decision was based, and if she had been informed in timely fashion that the Director of SatCen planned the adoption of such a decision, the applicant would have had the possibility of influencing the content of the decision of the Director of SatCen.

241 Consequently, the plea alleging infringement of the applicant's rights of defence in the adoption of the suspension decision must be upheld and results, in accordance with the case-law mentioned in paragraph 225 above, in the annulment of the suspension decision, without there being any need to examine the other pleas relied on by the applicant.

2. The claim for compensation

242 In support of her claim for compensation, the applicant relies on the illegality of the contested decisions. Those decisions caused her material damage relating to the loss of salaries, emoluments and entitlements she would have received between the date of effect of her removal and the end date of her contract. Moreover, those decisions caused her non-material damage consisting, in essence, in psychological suffering and in an attack on her professional integrity, the overall amount of which she evaluates at EUR 500 000.

243 According to settled case-law, in order for the European Union to incur non-contractual liability, within the meaning of the second paragraph of Article 340 TFEU, on account of the unlawful conduct of its institutions, a number of requirements must be satisfied, namely that the conduct alleged against the institutions is unlawful, that the damage is real and that there is a causal link between the conduct alleged and the damage relied upon (judgment of 28 April 1971, *Lütticke* v *Commission*, 4/69, EU:C:1971:40, paragraph 10; see, also, judgments of 9 September 2008, *FIAMM and Others* v *Council and Commission*, C-120/06 P and C-121/06 P, EU:C:2008:476, paragraph 106 and the case-law cited, and of 18 March 2010, *Trubowest Handel and Makarov* v *Council and Commission*, C-419/08 P, EU:C:2010:147, paragraph 40 and the case-law cited).

244 It is therefore necessary to ascertain whether, in the present case, those conditions giving rise to the EU's non-contractual liability are fulfilled.

(a) The unlawful conduct alleged against SatCen

245 As regards the condition relating to the unlawfulness of the conduct alleged against an institution, according to well-established case-law, where the Union acts as an employer, it is subject to increased liability, manifested in the obligation to make good damage caused to its staff by any illegality committed in its capacity as employer. Unlike any other individual, an official or other member of EU staff is connected to the institution, body or agency to which he belongs by a legal relationship of employment involving a balance of specific reciprocal rights and obligations, essentially intended to preserve the relationship of trust which must exist between the administration and its officials and other members of staff in order to guarantee to the public that tasks in the public interest entrusted to the EU institutions, bodies and agencies are performed effectively (see, to that effect, judgments of 16 December 2010, *Commission* v *Petrilli*, T-143/09 P, EU:T:2010:531, paragraph 46, and of 12 July 2012, *Commission* v *Nanopoulos*, T-308/10 P, EU:T:2012:370, paragraph 103).

246 Although the case-law set out in the previous paragraph has been developed in the context of actions brought on the basis of Article 270 TFEU and of Articles 90 and 91 of the Staff Regulations, it is appropriate to apply that case-law, *mutatis mutandis*, in the present case. Indeed, like the Staff Regulations, the provisions of the SatCen Staff Regulations involve a balance of specific reciprocal rights and obligations in relation to the contract staff of SatCen, intended to ensure the efficient performance of the tasks in the public interest entrusted to SatCen.

247 Accordingly, in the present case, the mere finding that SatCen committed an illegality is sufficient to consider that the first of the three conditions necessary for the EU's liability to be incurred has been fulfilled.

248 In that regard, it is apparent from the examination of the applicant's claim for annulment, which serves as the basis for its claim for compensation, that the suspension decision, the removal decision and the decision of the Appeals Board are all vitiated by illegalities liable to result in their annulment. Accordingly, by adopting those decisions, SatCen committed a wrongful act liable to entail non-contractual liability on the part of the European Union, to the extent that the existence of real and certain harm and a sufficiently direct causal nexus between that harm and that wrongful act are established.

(b) The harm and the causal link

(1) The material harm and the causal link

249 The applicant seeks compensation for the material harm allegedly caused by the contested decisions, corresponding to the amount of the remuneration to which she would have been entitled had she remained in her position at SatCen between the date of her dismissal and the date on which her employment contract ended.

250 In that regard, it is true that, by this judgment, the Court has annulled the removal decision, by which the applicant's contract was terminated. However, in accordance with Article 266 TFEU, it is for SatCen to take the measures necessary to comply with the judgment addressed to it. Thus, if it is not to prejudge those implementing measures, the Court is not able to conclude that the annulment of the removal decision necessarily implies that the applicant is entitled to payment of the amounts that she claims, so that the claim for compensation must, in that regard, be rejected as premature (see, by analogy, judgments of 17 October 2013, *BF* v *Court of Auditors*, F-69/11, EU:F:2013:151, paragraph 75 and the case-law cited, and of 22 May 2014, *CU* v *EESC*, F-42/13, EU:F:2014:106, paragraph 56).

251 It must be recalled in that regard that, according to settled case-law, in order to comply with a judgment annulling a measure and to implement it fully, the institution responsible for adopting that measure is required to take the necessary measures to reverse the effects of the illegalities found to exist, which, in the case of a measure which has already been implemented, involves restoring the applicant's legal position to what it was prior to that measure (see, to that effect, judgment of 31 March 2004, *Girardot* v *Commission*, T-10/02, EU:T:2004:94, paragraph 84 and the case-law cited).

252 Article 266 TFEU also requires the institution concerned to ensure that any act intended to replace the annulled act is not affected by the same irregularities as those identified in the judgment annulling the original act (see judgment of 13 September 2005, *Recalde Langarica* v *Commission*, T-283/03, EU:T:2005:315, paragraph 51 and the case-law cited).

253 Lastly, when compliance with a judgment annulling a measure poses special difficulties, the institution concerned may take any decision which is such as to compensate fairly for the disadvantage resulting for the person concerned from the annulled decision and may, in that context, establish a dialogue with that person with a view to seeking to reach an agreement offering him fair compensation for the illegality of which he was a victim (see judgment of 24 June 2008, *Andres and Others* v *ECB*, F-15/05, EU:F:2008:81, paragraph 132 and the case-law cited).

254 It is apparent from all the foregoing that the Court is not in a position to award compensation to the applicant without knowing the measures adopted by SatCen to comply with this judgment (see, to that effect, judgments of 8 June 2006, *Pérez-Díaz* v *Commission*, T-156/03, EU:T:2006:153, paragraph 76 and the case-law cited, and of 5 February 2016, *GV* v *EEAS*, F-137/14, EU:F:2016:14, paragraph 94 and the case-law cited).

(2) The non-material harm and the causal link

255 The applicant seeks compensation for the non-material harm that she claims to have suffered as a result of the adoption of the contested decisions, which have allegedly caused psychological suffering and an attack on her professional integrity, reputation, career prospects and ability to work.

256 In that regard, it must be recalled that, according to the case-law, the annulment of an unlawful act may constitute, in itself, appropriate and, in principle, sufficient compensation for any non-material harm which that measure may have caused, unless the applicant shows that he has sustained non-material harm that can be separated from the illegality on which the annulment is based and cannot be compensated in full by that annulment (see judgment of 19 July 2017, *DD* v *FRA*, T-742/15 P, not published, EU:T:2017:528, paragraph 72 and the case-law cited).

257 In the present case, it must be stated that the annulment of the suspension decision and of the removal decision is not capable of repairing the non-material harm sustained by the applicant which was caused by the illegalities vitiating those decisions.

258 In the first place, the applicant was the subject of an administrative investigation the outcome of which accounted for both the suspension decision and the decision to initiate disciplinary proceedings, the latter having led to the adoption of the removal decision. However, the administrative investigation report called the applicant's conduct into question in a very general manner. Moreover, the applicant was given an excessively short period in which to submit her comments on that report and the documents constituting the core of that investigation were disclosed to her several months after the decision to initiate disciplinary proceedings. Thus, the applicant was forced to endure psychological suffering related to her state of uncertainty regarding the precise facts alleged against her, which were expressly classified as psychological harassment.

259 In the second place, by circulating among SatCen staff members a 'Bullying Questionnaire' referring to the applicant by name and associating her with categories of behaviour liable to constitute psychological harassment, even though she had not been heard following the administrative investigation and before the Director had decided to suspend her, SatCen committed a particularly serious attack on the applicant's good repute and her professional reputation.

260 By contrast, the applicant's claims for compensation for harm owing to a situation of psychological harassment in relation to her must be rejected. By such a claim, the applicant seeks to obtain a result which is identical to that which would have procured for her the success of her claim for annulment of the implied decision to reject the request for assistance on account of a situation of psychological harassment in relation to her, which was rejected as inadmissible (see paragraph 138 above). In that regard, it is settled case-law that a claim for compensation for damage must be rejected where it is closely related to a claim for annulment which has itself been rejected as unfounded (see judgment of 9 September 2010, *Carpent Languages* v *Commission*, T-582/08, not published, EU:T:2010:379, paragraph 84 and the case-law cited).

261 It is apparent from the foregoing that the applicant has sustained non-material harm arising from a state of uncertainty as regards the facts alleged against her and from an attack on her good repute and her professional reputation. It is appropriate to decide *ex æquo et bono* that compensation of EUR 10 000 constitutes appropriate recompense for that harm and, therefore, to order SatCen to pay that sum to the applicant.

Costs

262 Under Article 134(1) of the Rules of Procedure, the unsuccessful party is to be ordered to pay the costs if they have been applied for in the successful party's pleadings.

263 It is apparent from the grounds set out above that SatCen has essentially been unsuccessful, and that it must therefore be ordered to pay the costs, in accordance with the form of order to that effect sought by the applicant.

264 By contrast, the applicant's claim that SatCen should be ordered to pay the costs should be coupled with an obligation to pay default interest must be rejected. Such a claim is premature and may be decided upon, where appropriate, only in the context of the taxation of costs proceedings.

265 In addition, under Article 138(1) of the Rules of Procedure, the Member States and the institutions which have intervened in the proceedings are to bear their own costs. Accordingly, as an intervening institution, the Council must bear its own costs.

On those grounds,

THE GENERAL COURT (Ninth Chamber, Extended Composition)

hereby:

1. **Annuls the decision of the Appeals Board of the European Union Satellite Centre (SatCen) of 26 January 2015;**

2. **Annuls the decision of the Director of SatCen of 5 July 2013 suspending KF;**

3. **Annuls the decision of the Director of SatCen of 28 February 2014 removing KF;**

4. **Orders SatCen to pay KF the sum of EUR 10 000 as compensation for the non-material harm sustained by her;**

5. **Dismisses the action as to the remainder;**

6. **Orders SatCen to bear its own costs and to pay those incurred by KF;**

7. **Orders the Council of the European Union to bear its own costs.**

Gervasoni Madise da Silva Passos

Kowalik-Bańczyk Mac Eochaidh

Delivered in open court in Luxembourg on 25 October 2018.

Signatures

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