

Form of order sought

The applicant claims that the Court should:

- annul the contested decision by granting its application for ‘Restitution in integrum’ and, consequently, declare admissible the earlier appeal brought by the applicant against the decision of the Cancellation Division of 4 February 2014, which is to be heard by the Fifth Board of Appeal of OHIM.
- order OHIM to pay the costs.

Pleas in law

- Incomplete statement of facts in the contested decision, procedural irregularities giving rise to infringement of the applicant’s rights of defence and of the duty of care owed to the applicant.
- Incorrect assessment of the evidence, lack of proportion between the formal defect supposedly committed by the applicant and the consequences of the same inasmuch as the applicant was deprived of its right to challenge a decision against his interests, and too strict an approach taken in the decision.
- Infringement of the applicant’s right to a fair hearing as it could not challenge the grounds on which the declaration of partial annulment of the mark ‘AVE’ was based.

Appeal brought on 13 August 2015 by European External Action Service (EEAS) against the judgment of the Civil Service Tribunal of 3 June 2015 in Case F-78/14, Gross v EEAS

(Case T-472/15 P)

(2015/C 346/38)

Language of the case: French

Parties

Appellant: European External Action Service (EEAS) (represented by S. Marquardt and M. Silva, acting as Agents)

Other party to the proceedings: Philipp Oliver Gross (Brussels, Belgium)

Form of order sought by the appellant

The appellant claims that the Court should:

- set aside the judgment of the Civil Service Tribunal of the European Union (Third Chamber) of 3 June 2015 in Case F-78/14 (Gross v EEAS);
- uphold the claims submitted by the appellant at first instance;
- order the defendant to pay the costs.

Pleas in law and main arguments

In support of the appeal, the appellant relies on seven pleas in law, some of which concern the staff appraisal system and others of which concern the promotion system.

— The appraisal system

1. First plea in law, alleging an infringement of Article 43 of the Staff Regulations of Officials of the European Union ('the Staff Regulations'), breach of the rules on the allocation of the burden of proof, breach of the rule against ruling *ultra petita* and breach of the appellant's rights of the defence.
2. Second plea in law, alleging infringement of the limits of judicial review. The appellant submits that, in the judgment under appeal, the Civil Service Tribunal ('the CST') has exceeded the limits of its power of judicial review several times, and appears to be seeking to oblige it to adopt a particular system of staff appraisal.
3. Third plea in law, alleging that the Tribunal erred in law in finding that an appraisal system not based on marks lacks objectivity, and that it infringed Article 43 of the Staff Regulations.
4. Fourth plea in law alleging an infringement of Article 266 TFEU, in that, by partially annulling the decision at issue, the CST made it impossible to implement the judgment under appeal without giving rise to other instances of unlawfulness. The appellant submits that, if Article 4 of the decision at issue is unlawful, a new comparative analysis of the defendant's merits with those of the other officials eligible for promotion in his grade must be made, pursuant to the judgment under appeal, on the basis of the staff appraisal reports which, in accordance with the CST's ruling, do not make it possible for that analysis to be made on an objective and comparable basis.

— The promotion system

5. Fifth plea in law alleging infringement of the rule against ruling *ultra petita* and of the appellant's rights of the defence.
6. Sixth plea in law alleging infringement of the rules on the allocation of the burden of proof.
7. Seventh plea in law alleging that the CST erred in law in finding that the appellant had infringed Article 45 of the Staff Regulations.

Action brought on 21 August 2015 — Romania v Commission

(Case T-478/15)

(2015/C 346/39)

Language of the case: Romanian

Parties

Applicant: Romania (represented by: R.Radu, A. Buzoianu and E. Gane, acting as Agents)

Defendant: European Commission