

Appeal brought on 28 November 2015 by Peter Schönberger against the order of the Civil Service Tribunal of 30 September 2015 in Case F-14/12 RENV, Schönberger v Court of Auditors

(Case T-688/15 P)

(2016/C 059/29)

Language of the case: German

Parties

Appellant: Peter Schönberger (Luxembourg, Luxembourg) (represented by O.Mader, lawyer)

Other party to the proceedings: Court of Auditors of the European Union

Form of order sought by the appellant

The appellant claims that the Court should:

- annul the contested decision;
- grant the form of order sought at first instance.

Pleas in law and main arguments

By the present appeal, the appellant seeks to have set aside the order of 30 September 2015 in *Schönberger v Court of Auditors* (F-14/12 RENV, ECRFP, EU:F:2015:112).

In support of the appeal, the appellant relies on seven pleas in law.

1. First plea in law, alleging the misapplication of Article 81 of the Rules of Procedure of the European Union Civil Service Tribunal

The appellant claims that the Civil Service Tribunal ('the CST') misapplied Article 81 of its Rules of Procedure in the contested decision and thereby infringed the appellant's right to be heard and to a fair trial.

2. Second plea in law, alleging replacement of the grounds as a result of the consideration of arguments which were submitted late

According to the appellant, the CST effected a replacement of grounds in so far as it relied on arguments which were presented by the defendant out of time.

3. Third plea in law, alleging the distortion of facts

According to the appellant, the CST distorted the position of the Court of Auditors in so far as it maintained in the contested decision that the latter held that a comparison of the appellant's merits with those of the other officials eligible for promotion would not have resulted in the appellant's promotion, although the Court of Auditors merely declared that the appellant would not be automatically promoted if a greater number of posts were available.

4. Fourth plea in law, alleging erroneous application of a promotion criterion

The appellant further claims that, when assessing his merits, the CST wrongly applied a promotion criterion which exceeds the criteria of the Court of Auditors and which is unnecessarily strict in so far as evidence was required to show that the appellant was one of the 53 officials eligible for promotion with the greatest merits.

5. Fifth plea in law, alleging erroneous comparative assessment of the degree of responsibility exercised

Furthermore, the appellant claims that the comparative assessment of his level of responsibility was undertaken by the CST without a factual basis and wrongly assumes an automatic priority for Heads of Unit.

6. Sixth plea in law, alleging an incorrect assessment of the applicable promotion rate

The appellant claims in that regard that the question of the applicable promotion rate concerns the substance of the dispute. It should, therefore, not have been dealt with in the context of the examination of admissibility.

7. Seventh plea in law, alleging an incorrect application of the principle of equal treatment

Finally, the appellant claims that the CST applied the principle of equal treatment wrongly and inconsistently with settled case-law in so far as it disregarded the fact that that principle is infringed where institutions exceed their margin of discretion and arbitrarily adopted measures which infringe the Staff Regulations of Officials of the European Union.

Action brought on 25 November 2015 — HTTS v Council

(Case T-692/15)

(2016/C 059/30)

Language of the case: German

Parties

Applicant: HTTS Hanseatic Trade Trust & Shipping GmbH (Hamburg, Germany) (represented by: M. Schlingmann and M. Bever, lawyers)

Defendant: Council of the European Union

Form of order sought

The applicant claims that the Court should:

- Order the Council of the European Union to pay the applicant damages in the amount of EUR 2 516 221,50 for material and non-material loss suffered due to the inclusion of the applicant in the list of persons, entities and bodies in Annex V to Regulation (EC) No 423/2007 and in Annex VIII to Regulation (EU) No 961/2010;
- Order the Council of the European Union to pay interest for late payment in the amount of two percent over the rate of interest set by the European Central Bank for the principal refinancing operation from 17 October 2015 until payment in full of the above amount;
- Order the Council to pay the costs of the proceedings, including those incurred by the applicant.

Pleas in law and main arguments

In support of the action, the applicant relies on a single plea in law, according to which it claims that the Council — which unlawfully included it in the list of persons, entities and bodies all of whose funds and economic resources were frozen — infringed provisions which protect individual interests and which do not confer discretion on it.

The applicant suffered material and non-material loss as a direct consequence of the restrictive measures that the Council unlawfully imposed on it.

Appeal brought on 2 December 2015 by Juha Tapio Silvan against the judgment of the Civil Service Tribunal of 22 September 2015 in Case F-83/14, *Silvan v Commission*

(Case T-698/15 P)

(2016/C 059/31)

Language of the case: French

Parties

Appellant: Juha Tapio Silvan (Brussels, Belgium) (represented by N. de Montigny and J.-N. Louis, lawyers)