

Appeal brought on 20 September 2016 by Carlo De Nicola against the judgment of the Civil Service Tribunal of 21 July 2016 in Case F-100/15, De Nicola v EIB

(Case T-666/16 P)

(2016/C 410/35)

Language of the case: Italian

Parties

Appellant: Carlo De Nicola (Strassen, Luxembourg) (represented by G. Ferabecoli, lawyer)

Other party to the proceedings: European Investment Bank

Form of order sought by the appellant

The appellant claims that the Court should:

- uphold the present appeal and, reversing the judgment under appeal, annul points 1 and 2 of the operative part and paragraphs 33, 46 to 60, 85 to 94, 100 to 106 and 107 to 109 of the judgment itself;
- consequently, annul and/or disapply the decision taken on 8 December 2014 by the Appeals Committee, if necessary referring the matter back to that committee after laying down the criteria which must be complied in the adoption of the new decision; declare that bullying was committed by the EIB to the detriment of Mr De Nicola, and order the EIB to compensate Mr De Nicola for the damage suffered, as sought in the initiating application; or, in the alternative, refer the case to another appellate chamber of the General Court in order that it may, in a different formation, give a fresh decision on the annulled paragraphs, following the completion of the requested medical report.

Grounds of appeal and main arguments

The present appeal is brought against the judgment of the Civil Service Tribunal of 21 July 2016 dismissing the action, brought by the appellant, concerning annulment of the decision of the Appeals Committee of 8 December 2014 rejecting his complaint relating to his staff appraisal report for 2013, as well as the decision of the respondent not to promote him. The appellant also seeks a declaration confirming the psychological harm of which he claims to have been a victim and asks that the Bank be ordered to pay compensation for the material, non-material and physical harm which he has allegedly suffered.

In support of his claims, the appellant states that the request for a declaration confirming that bullying took place is based specifically on Article 41 of the Staff Regulations of the Bank and consequently there are no problems relating to content and/or subject matter such as to exempt the action from the jurisdiction of the EU Courts. In this respect, it is stressed that the duty of the EU Courts to rule on the request for a confirmatory declaration is confirmed in the case-law of the General Court.

The appellant claims furthermore that all the conditions laid down in the case-law to uphold the application for an award of damages are met.

The appellant also contests paragraphs 46 to 60 of the judgment under appeal, concerning the request for annulment of the decision of the Appeals Committee, in so far as that part of the judgment is based on the premiss that it had not been proved that the decision of the Appeals Committee was vitiated by a manifest error of assessment.

Appeal brought on 21 September 2016 by Carlo De Nicola against the judgment of the Civil Service Tribunal of 21 July 2016 in Case F-82/15, De Nicola v EIB

(Case T-669/16 P)

(2016/C 410/36)

Language of the case: Italian

Parties

Appellant: Carlo De Nicola (Strassen, Luxembourg) (represented by G. Ferabecoli, lawyer)

Other party to the proceedings: European Investment Bank (EIB)

Form of order sought

The appellant claims that the Court should:

- uphold the present appeal and, partially reversing the judgment under appeal, annul point 2 of the operative part, together with paragraphs 12, 13, 24, 55 to 57, 123 to 135 and 157 to 165 of the judgment itself;
- consequently, order the respondent to compensate Mr De Nicola for the damage suffered, as requested in the application initiating proceedings.

Grounds of appeal and main arguments

The present appeal is brought against the judgment of the Civil Service Tribunal of 21 July 2016, which dismissed the proceedings brought by the appellant, concerning, in essence, on the one hand, the annulment of the decision of 4 December 2014, by which the respondent denied the appellant the reimbursement of certain medical expenses, and, on the other hand, the award by the respondent and the European Union of compensation for the damage he allegedly suffered.

In support of his appeal, the appellant disputes the findings on the scientific benefits of laser therapy in the judgment under appeal.

The appellant claims furthermore that the conditions relating to compensation for damage, whether material or non-material, are met in the present case.

Action brought on 16 September 2016 — Digital Rights Ireland v Commission

(Case T-670/16)

(2016/C 410/37)

Language of the case: English

Parties

Applicant: Digital Rights Ireland Ltd (Bennettsbridge, Ireland) (represented by: E. McGarr, Solicitor)

Defendant: European Commission

Form of order sought

The applicant claims that the Court should:

- declare that the Application is admissible;
- declare that the Commission Implementing Decision (EU) 2016/1250 of 12 July 2016 pursuant to Directive 95/46/EC of the European Parliament and of the Council on the adequacy of the protection provided by the EU-U.S. Privacy Shield is a manifest error of assessment by the Commission insofar as it finds an adequate level of protection in the US, for personal data, concordant with Directive 95/46/EC ⁽¹⁾;
- declare that the contested decision is null and void and order the annulment of the contested decision relating to the adequacy of the protection provided by the EU-US Privacy Shield;
- order the Commission to pay the costs of the proceedings.

Pleas in law and main arguments

In support of the action, the applicant relies on ten pleas in law.

1. First plea in law, alleging that the contested decision is not in accordance with Article 25(6) of Directive 95/46, read in the light of Articles 7, 8 and 47 of the Charter of Fundamental Rights of the European Union.