

Form of order sought

The applicant claims that the Court should:

- annul the Commission Implementing Decision (EU) 2020/1193 of 2 July 2020 on the applicability of Article 34 of Directive 2014/25/EU of the European Parliament and of the Council to railway passenger transport in Sweden ⁽¹⁾ in so far as it declares that the Utilities Directive shall continue to apply to procurement contracts intended to enable activities related to the provision of commercial railway passenger services in Sweden;
- in the alternative, in so far as partial annulment is not, according to the Court, admissible or possible to annul the Decision in its entirety; and,
- order the Commission to pay the costs incurred by the applicant.

Pleas in law and main arguments

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

1. First plea in law, alleging that the Commission erred in law by not declaring the Utilities Directive inapplicable to procurement contracts intended to enable the provision of commercial railway passenger services on the Gothenburg — Malmö route.
2. Second plea in law, alleging that the Commission misinterpreted and misapplied the criteria for inapplicability of the Utilities Directive.
3. Third plea in law, alleging that the Commission erred in the delineation of the relevant market(-s).
4. Fourth plea in law, alleging that the Commission committed a manifest error of assessment in concluding that the provision of railway passenger services on the Stockholm-Gothenburg route is not directly exposed to competition.
5. Fifth plea in law, alleging that the Commission committed a manifest error of assessment by failing to conclude that the entire Swedish market is exposed to competition within the meaning of Article 34 of the Utilities Directive.
6. Sixth plea in law, alleging an infringement of essential procedural requirements.

⁽¹⁾ OJ 2020 L 262, p. 18

Action brought on 6 November 2020 — Thunus and Others v EIB**(Case T-666/20)**

(2021/C 28/84)

*Language of the case: French***Parties**

Applicants: Vincent Thunus (Contern, Luxembourg) and five other applicants (represented by: L. Levi, lawyer)

Defendant: European Investment Bank

Form of order sought

The applicants claim that the Court should:

- declare the present action admissible and well-founded, including the plea of illegality contained therein;

consequently:

- annul the decision contained in the applicants' salary slips for March 2020, a decision fixing the annual adjustment of the basic salary limited to 0,7 % for the year 2020 as from 1 January 2020, and, therefore, annul similar decisions contained in subsequent salary slips;
- therefore, order the defendant
 - to pay compensation for material damage of (i) the salary balance corresponding to the application of the annual adjustment for 2020, that is an increase of 1 % for the period from 1 January 2020 to 31 December 2020; (ii) the salary balance corresponding to the consequences of the application of the annual adjustment of 0,7 % for 2020 on the amount of salaries to be paid as from January 2020; (iii) default interest on outstanding salary balances until full payment of the sums due, the rate of default interest to be applied being calculated on the basis of the rate set by the European Central Bank for the main refinancing operations, applicable during the period concerned, increased by 3 points;
- where appropriate, if it fails to produce them spontaneously, invite the defendant, under measures of organisation of procedure, to produce the following documents:
 - the report of the remuneration sub-committee to the Board of Directors of December 2019;
 - the note of the Personnel Department to the Management Committee of 19 November 2019 communicating an amended version of the annual remuneration report (CS-PERS/HRPLC/RRP/2019-030/BAHVBA) and the version of the annual remuneration report as communicated to the Board of Directors;
 - the note of the Secretary-General to the Management Committee of 28 November 2019 communicating the EIB operational plan for 2020 (SG/IS/PBA/2019-1506) and the version of the EIB operational plan for 2020 as submitted to the Board of Directors in December 2019;
 - the decision of the Board of Directors of 12 December 2019 (Annexes 2 and 2 (ii) to PV/20/01);
 - the note of the Personnel Department of 31 January 2020 (CS-PERS/HRPLC/RRP/2020-002/SGBA);
 - the decision of the Management Committee of 6 February 2020 (MC-040-ADM-20200206);
- order the defendant to pay the entirety of the costs.

Pleas in law and main arguments

In support of the action, the applicants rely on, respectively, two and four pleas in law, first, regarding the decision of the Board of Directors of 18 July 2017, and, second, regarding the decisions of the Board of Directors of 12 December 2019 and of the Management Committee of 6 February 2020.

Regarding the decision of the Board of Directors of 18 July 2017:

1. First plea in law, alleging infringement of the principle of legal certainty.
2. Second plea in law, alleging infringement of Article 20 and Annex I to the Conditions of Employment (the Staff Regulation I) and infringement of legitimate expectations and acquired rights.

Regarding the decisions of the Board of Directors of 12 December 2019 and of the Management Committee of 6 February 2020:

1. First plea in law, alleging infringement of the right to an annual salary adjustment (ASA) covering at least the cost of inflation in Luxembourg and infringement of Article 20 and Annex I to Staff Regulation I.

2. Second plea in law, alleging infringement of the procedural guarantees of Article 41 of the Charter of Fundamental Rights of the European Union.
3. Third plea in law, alleging infringement of the right of consultation and negotiation of the College [of Representatives of the Staff of the EIB].
4. Fourth plea in law, alleging infringement of the principle of proportionality.

As regards their claim for compensation, the applicants demand payment of the difference in remuneration due, that is 1 % since 1 January 2020 (including the impact of that increase on pecuniary benefits) plus interest for late payment.

Action brought on 9 November 2020 — NZ v Commission

(Case T-668/20)

(2021/C 28/85)

Language of the case: French

Parties

Applicant: NZ (represented by: H. Tagaras, lawyer)

Defendant: European Commission

Form of order sought

The applicant claims that the General Court should:

- proceed with the measure of organisation of procedure sought by the applicant in paragraph 35 of the [application] (as well as those referred to in paragraphs 21 and 30) and, at the end of the procedure;
- annul the contested decisions;
- order the defendant to pay the costs.

Pleas in law and main arguments

In support of her action seeking, principally, annulment of the decision of the European Commission rejecting her request for review of the decision of the selection board in competition COM/1/AD10/18 not to include her name on the reserve list of that competition, and of the decision rejecting her complaint and, in the alternative, of the abovementioned decision of the selection board, the applicant relies on five pleas in law.

1. First plea in law, alleging breach of the obligation to state reasons, not solely on the basis of a failure to state adequate reasons, but also on the basis of a manifest contradiction in the reasoning provided because, inter alia, despite the verbal assessment of the applicant's performance being sufficient for her to be included on the reserve list under all the criteria relied on ('very strong'), the selection board gave her a lower average mark ('strong to very strong') which resulted in her being excluded from the list.
2. Second plea in law, alleging infringement of the principle of equal treatment, on the ground that, inter alia, the membership of the selection board changed continuously, and candidates, with exactly the same verbal assessment as the applicant, were placed on the reserve list.
3. Third plea in law, alleging infringement of the rules governing selection boards.