

Action brought on 4 April 2005 by Federico José Garcia Resusta against the Commission of the European Communities

(Case T-147/05)

(2005/C 155/48)

(Language of the case: French)

An action against the Commission of the European Communities was brought before the Court of First Instance of the European Communities on 4 April 2005 by Federico José Garcia Resusta, residing in Brussels, represented by Jean Van Rossum, lawyer, with an address for service in Luxembourg.

The applicant claims that the Court should:

- annul the Commission's decision to dismiss the applicant's request for recognition of the occupational origin of his disease or aggravation thereof, which prevents him from performing the tasks associated with a post in his category and grade,
- order the defendant to pay the costs.

Pleas in law and main arguments

The Commission adopted the contested decision following the judgment of 23 November 2004 of the Court of First Instance in Case T-376/02 ⁽¹⁾, which annulled the Commission's decision of 14 January 2002 awarding the applicant an invalidity pension.

In support of his action, the applicant alleges infringement of the obligation to state reasons and infringement of Article 3 of the Rules on the insurance of officials of the European Communities against the risk of accident and of occupational disease, on the grounds that the opinion of the Medical Committee, which decided that it had not been established sufficiently that the aggravation of the applicant's disease had a direct connection with the duties he had performed, was contrary to the opinion of the Invalidity Committee, which had found the applicant's pre-existing disease had been aggravated by the stress related to his duties.

⁽¹⁾ Application published in OJ 2003 C 44 of 22.2.2003, p. 37, judgment published in OJ 2004 C 45 of 19.2.2005, p. 23.

Action brought on 14 April 2005 by Carlos Sanchez Ferriz against the Commission of the European Communities

(Case T-153/05)

(2005/C 155/49)

(Language of the case: French)

An action against the Commission of the European Communities was brought before the Court of First Instance of the European Communities on 14 April 2005 by Carlos Sanchez Ferriz, residing in Brussels, represented by Gilles Bounéou and Frédéric Frabetti, lawyers, with an address for service in Luxembourg.

The applicant claims that the Court should:

1. annul the evaluation exercise 2003 in relation to the applicant,
2. alternatively, annul the applicant's career development report for the period 1.1.2003-31.12.2003;
3. order the Commission to pay the costs.

Pleas in law and main arguments

The pleas in law and main arguments put forward by the applicant in the present case are identical to those put forward in Cases T-43/04 and T-47/04.

Action brought on 15 April 2005 by Carmela Lo Giudice against the Commission of the European Communities

(Case T-154/05)

(2005/C 155/50)

(Language of the case: French)

An action against the Commission of the European Communities was brought before the Court of First Instance of the European Communities on 15 April 2005 by Carmela Lo Giudice, residing in Strambeek Bever (Belgium), represented by Gilles Bounéou and Frédéric Frabetti, lawyers, with an address for service in Luxembourg.

The applicant claims that the Court should:

1. annul the express decision of 18 January 2005, No 05/399, rejecting her complaint;
2. in so far as is necessary, annul the implied decision rejecting the applicant's request for assistance dated 28 November 2003 and annul the implied decision rejecting the applicant's request for assistance dated 23 December 2003;
3. find that the applicant was subjected to, and experienced, psychological harassment in her job;
4. order the defendant to pay the applicant the sum of EUR 100 000 (one hundred thousand euro) in compensation for non-material damage, subject to any increases or assessments in connection with the psychological harassment, bearing in mind that the applicant's future is totally uncertain and that her health has been badly affected;
5. reserve all legal obligations, including the right to apply for discovery of the witness examinations as described in the IDOC's findings of 7 January 2005;
6. order the defendant to pay the costs.

Pleas in law and main arguments

The applicant, an official of the Commission, lodged with her superiors two requests for assistance, dated 28 November 2003 and 23 December 2003, in which she claimed to be the victim of psychological harassment within her organisational unit. By her action, she contests the rejection of her requests and of the complaint which she lodged subsequently.

In support of her action, the applicant maintains that, in the light of the number of tasks which were assigned to her by her superior and of the number of e-mails which he sent to her, it is indisputable that she experienced genuine psychological harassment. The contested decisions therefore infringe Article 12 of the Staff Regulations.

The rejection of her requests for assistance infringes, in her view, both Article 24 of the Staff Regulations and Mr Kinnock's proposal of 15 October 2003 concerning policy on psychological harassment. The applicant also alleges failure to state reasons for the decision of 18 January 2005, breach of the principle of the prohibition of arbitrary conduct, misuse of powers, breach of the principle of the protection of legitimate expectations and of the rule *patere legem quam ipse fecisti* and breach of the duty to have regard for the welfare of officials.

Action brought on 18 April 2005 by Robert Steinmetz against the Commission of the European Communities

(Case T-155/05)

(2005/C 155/51)

(Language of the case: French)

An action against the Commission of the European Communities was brought before the Court of First Instance of the European Communities on 18 April 2005 by Robert Steinmetz, residing in Luxembourg, represented by Joëlle Choucroun, lawyer, with an address for service in Luxembourg.

The applicant claims that the Court should:

1. annul the Commission's decision dated 10 January 2005 in reply to the applicant's complaints R/376/04 of 29 April 2004 and R/857/04 of 20 August 2004;
2. order the Commission to repay EUR 26.19 to the applicant;
3. award the applicant token compensation of one euro for the non-material damage suffered as a result of the contested decision;
4. order the Commission to pay the entire costs of the proceedings.

Pleas in law and main arguments

The applicant in the present case objects to the rejection by the Appointing Authority of his claim for settlement of mission expenses and for repayment of EUR 26.19 unduly deducted from his salary of March 2005. In that context, he also objects to the refusal to grant his request for assistance, submitted under Article 24 of the Staff Regulations.