

EUROPEAN UNION CIVIL SERVICE TRIBUNAL

**Judgment of the Civil Service Tribunal (Second Chamber)
of 14 June 2007 — De Meerleer v Commission**

(Case F-121/05) ⁽¹⁾

(Staff case — Officials — Open Competition — Non-admission to the written tests — Professional experience — Obligation to state reasons — Communication of the decision of the selection board — Request for re-examination)

(2007/C 170/80)

Language of the case: French

Parties

Applicant: Michel De Meerleer (Ophain-Bois-Seigneur-Isaac, Belgium) (represented by: E. Boigelet, lawyer)

Defendant: Commission of the European Communities (represented by: C. Berardis-Kayser and K. Herrmann, Agents)

Re:

First, annulment of the decisions of the Selection Board in competition EPSO/A/19/04 not to accept the applicant's candidature and not to reach a decision on his request for re-examination, and second, an application for damages

Operative part of the judgment

The Tribunal:

1. Dismisses the application;
2. Orders the parties to bear their own costs.

⁽¹⁾ OJ C 60, 11.3.2006, p. 52.

**Action brought on 18 May 2007 — Tzirani v Commission
of the European Communities**

(Case F-46/07)

(2007/C 170/81)

Language of the case: French

Parties

Applicant: Marie Tzirani (Brussels, Belgium) (represented by: E. Boigelot, lawyer)

Defendant: Commission of the European Communities

Form of order sought

- Annul the decision of the European Commission of 30 August 2006 to reappoint Mr X to the post of Director of the Directorate 'Staff Regulations: Policy, Management and Advisory Services' of the Directorate-General 'Personnel and Administration' and consequently to reject the applicant's candidature for that post;
- Order the defendant to pay, in compensation for non-material and material damage and impairment to the applicant's career, a sum of EUR 25 000, with interest at the rate of 7 % per annum since 29 November 2006, the date of the complaint;
- Order the defendant to pay the costs.

Pleas in law and main arguments

The applicant, after requesting and obtaining, in Case T-45/04 ⁽¹⁾, the annulment of the decision of the Commission of 21 January 2003 to appoint Mr X to the above-mentioned post, now challenges the lawfulness of the procedure according to which, following this annulment, the Commission reappointed the same person to the post in question.

In support of her action, the applicant pleads first the infringement of Article 233 EC, as a result of the Commission failing to take the necessary measures to comply with the judgment of the Court of First Instance. According to the applicant, the procedure should have been reopened not only at the final stage of the interview with the Commissioner but already at the stage of the checking of the eligibility of the candidates in the light of the criteria established by the vacancy notice.

The applicant furthermore pleads the infringement of Articles 7, 14, 29 and 45 of the Staff Regulations of Officials of the European Communities, the disregard of several general legal principles and the misuse of powers.

(¹) Judgment of the Court of First Instance of 4 July 2006, *Tzirani v Commission* (not yet published in the ECR).

Action brought on 21 May 2007 –Behmer v Parliament

(Case F-47/07)

(2007/C 170/82)

Language of the case: French

Parties

Applicant: Joachim Behmer (Brussels, Belgium) (represented by: S. Orlandi, A. Coolen, J.-N. Louis and E. Marchal, lawyers)

Defendant: European Parliament

Form of order sought

- Declare unlawful the decision of the Bureau of the European Parliament relating to the 'Policy on promotion and on career planning' of 6 July 2005 and the 'Implementing measures relating to the award of merit points and to promotion' of 25 July 2005;
- Annul the decision of the appointing authority not to promote the applicant to grade A*13 with effect from 1 January 2005 in the 2005 promotions procedure;
- Order the defendant to pay the costs.

Pleas in law and main arguments

The applicant, a grade AD12 official of the European Parliament who is currently Vice-President of the Trade Union of the European Public Service, Luxembourg (Union Syndicale Luxembourg), pleads in the first place the unlawfulness of the decisions referred to in the first indent above, which are in his opinion general provisions for giving effect to the Staff Regulations of Officials of the European Communities ('Staff Regulations') for the purposes of Article 110 thereof.

The applicant also pleads infringement of Article 45 of the Staff Regulations and of the principles governing reasonable career

prospects, equality of treatment and the duty to give reasons, and he also pleads a manifest error of assessment. In particular, he asserts that the administration, after annulling, following his first complaint, the decision to award him 2 merit points, should have promoted him to grade AD13.

Finally, the applicant contends that he was discriminated against because of his activities as a representative of the personnel, contrary to Article 1d and 24b of the Staff Regulations, to the sixth paragraph of Article 1 of Annex II of the Staff Regulations and to Article 17 of the Agreement of 12 July 1990 between the European Parliament and the trade unions or staff associations of the personnel of the institution.

Action brought on 30 May 2007 — Bui Van v Commission

(Case F-51/07)

(2007/C 170/83)

Language of the case: French

Parties

Applicant: Philippe Bui Van (Hettange Grande, France) (represented by: S. Rodrigues and R. Albelice, lawyers)

Defendant: Commission of the European Communities

Form of order sought

- annul the decision of the Appointing Authority of 5 March 2007 not to accept the applicant's complaint;
- annul the decision of the Director General of the Joint Research Centre (JRC) of 4 October 2006 in so far as it reclassifies the applicant in Grade AST 3, Step 2, whereas he had initially been classified in Grade AST 4, Step 2;
- state to the Appointing Authority the consequences of the annulment of the contested decisions and, in particular, classification in Grade AST 4, Step 2, the retroactive effect of appointment in Grade AST 4, Step 2, from the date the post was first taken up, the consequences in regard to different remuneration and default interest on the payment of the difference, as well as consequences in regard to promotion;
- award the applicant the symbolic sum of one euro by way of compensation for his non-material loss;
- order the defendant to pay the costs.