

- declare that there is no legal basis for or, in the alternative, annul, in so far as is necessary and if it actually exists, which is uncertain at this stage, the alleged opinion of the relevant medical board referred to in the note dated 30 November 2006, the details of which are unknown to the applicant;
- order the defendant to pay the costs.

Pleas in law and main arguments

In support of his claims, the applicant relies on the following three pleas in law:

- (1) absolute failure to state reasons, also on the basis that the grounds put forward by the defendant are illogical, inconsistent, tautologous, confused, show a failure to make preliminary inquiries and are in the nature of a pretext;
- (2) manifest error of assessment and infringement of the law;
- (3) breach of the obligation to have due regard to the welfare of officials and of the principle of sound administration.

Action brought on 27 June 2007 — Marcuccio v Commission

(Case F-20/07)

(2007/C 223/34)

Language of the case: Italian

Parties

Applicant: Luigi Marcuccio (Tricase, Italy) (represented by: G. Cipressa, lawyer)

Defendant: Commission of the European Communities

Form of order sought

- annul, in so far as is necessary, the decision rejecting the claim of 31 March 2006, submitted on 4 April 2006, in so far as that decision concerns the applicant's claim that point 4 of Article XV of Annex I to the Rules on sickness insurance for officials of the European Communities ('the Rules') should apply to the determination and subsequent reimbursement in respect of a medical examination carried out on 28 September 2005;
- annul the decision rejecting the claim of 31 March 2006;
- annul, in so far as is necessary, Calculation No 58, List No 30001052, of 24 May 2006;
- annul, in so far as is necessary, Note ADMIN.B.2/MB/nb D(06) 27556 of 30 November 2006 containing, *inter alia*,

the decision of the Appointing Authority in response to the claim of 7 August 2006, which has essentially the same purpose as the present action;

- order the defendant to pay the applicant, by way of reimbursement of the additional sum needed to make up 100 % reimbursement of the medical expenses incurred by him and in respect of which he claimed reimbursement from the Joint Scheme in the claim of 31 March 2006, the difference between the sum of EUR 720,45 paid by the applicant and the sum of EUR 396,36 actually reimbursed to him, or other such sum as the Tribunal may consider just and equitable in that regard, such sum to earn interest from 8 April 2006 at the rate of 10 % per annum to be compounded annually, or at the rate to be compounded and from the starting date which the Tribunal may consider just;
- order the defendant, in so far as is necessary, to pay the applicant the sum that he is due but has not received, within the meaning and for the purposes of point 4 of Article XV of Annex I to the Rules, in relation to the medical examination carried out on 28 September 2005, such sum to earn interest from 4 April 2006 at the rate of 10 % per annum to be compounded annually, or at the rate to be compounded and from the starting date which the Tribunal may consider just;
- order the defendant to pay the costs.

Pleas in law and main arguments

The action is brought as a result of the defendant's refusal to pay the applicant the additional sum needed to make up 100 % reimbursement of certain medical expenses incurred by him and to apply point 4 of Article XV of Annex I to the Rules on sickness insurance for officials of the European Communities to the determination of the reimbursement in respect of a medical examination carried out on 28 September 2005.

In support of his arguments, the applicant relies on the following three pleas in law:

- (1) absolute failure to state grounds also by reason of a total failure to make preliminary inquiries, inasmuch as it cannot be understood why the defendant refused the applicant's claims in the manner referred to above;
- (2) manifest error of assessment and infringement of the law on the basis that the applicant's medical condition was such as to give rise, within the meaning and for the purposes of Article 72 of the Staff Regulations, to a right on his part to 100 % reimbursement of medical expenses;
- (3) breach of the obligation to have due regard to the welfare of officials and of the principle of sound administration, given that the defendant failed to have due regard to the applicant's interests and did several acts and related deeds which are gravely unlawful.
