

**Appeal brought on 24 January 2013 by Vincent Bouillez against the judgment of the Civil Service Tribunal of 14 November 2012 in Case F-75/11, Vincent Bouillez v Council**

(Case T-31/13 P)

(2013/C 86/35)

*Language of the case: French*

**Parties**

*Appellant:* Vincent Bouillez (Overijse, Belgium) (represented by: D. Abreu Caldas, A. Coolen, J.-N. Louis and É Marchal, lawyers)

*Other party to the proceedings:* Council of the European Union

**Form of order sought by the appellant**

The applicant claims that the Court should:

- set aside the judgment of the Civil Service Tribunal (Third Chamber) of 14 November 2012 in Case F-75/11 *Vincent Bouillez v Council*;
- annul the decision not to promote the applicant;
- order the Council to pay the costs at first instance and on appeal.

**Pleas in law and main arguments**

In support of the appeal, the appellant relies on three pleas in law.

1. First plea in law, alleging an error of law in so far as the CST held, without ascertaining whether the contested decision at first instance complied with the duty to state reasons for a decision whereas the CST did not request any evidence from the Council as to the actual application of the criteria in Article 45 of the Staff Regulations in the comparative examination of the examination of the applicant's merits as compared with those of other officials eligible for promotion.
2. Second plea in law, alleging an error of law, since the CST based its decision on mere statements by the Council that the level of responsibilities had indeed been taken into account in the comparative examination of the merits in order to conclude that the applicant has not shown the contrary in spite of information provided by the applicant in the measures of organisation of procedure, from which it was clear that several officials who were promoted did not have a level of responsibilities or a harmonised mark as high as the applicant's or a higher number of languages used (paragraphs 45 and 46 of the contested decision).

3. Third plea in law, alleging contradictory reasoning, in so far as the CST could not state on one hand that the Council rightly decided to carry out a fresh comparative examination of the merits of all Grade AST 6 officials eligible for promotion in promotion year 2007 and then hold that the Council was not required to take into account the merits of a specific official who had already been promoted in that year and whose promotion had become final (concerning paragraphs 69 and 70 of the judgment under appeal).

The applicant also asserts that the CST has committed an error in law by failing to classify the facts, on the basis of the evidence in the file, as constituting a manifest error of assessment.

**Appeal brought on 24 January 2013 by Mario Paulo da Silva Tenreiro against the judgment of the Civil Service Tribunal of 14 November 2012 in Case F-120/11 da Silva Tenreiro v Commission**

(Case T-32/13 P)

(2013/C 86/36)

*Language of the case: French*

**Parties**

*Appellant:* Mario Paulo da Silva Tenreiro (Kraainem, Belgium) (represented by S. Orlandi, J.-N. Louis and D. Abreu Caldas, lawyers)

*Other party to the proceedings:* European Commission

**Form of order sought by the appellant**

- Order
  - that the judgment of the Civil Service Tribunal delivered on 14 November 2012 (Case F-120/11 *da Silva Tenreiro v Commission*) dismissing the action brought by the applicant is annulled;
  - giving judgment itself,
  - order
    - that the decision of the European Commission rejecting the applicant's application for the vacant post of Director of Directorate A 'Civil Justice' in Directorate General (DG) 'Justice' and the decision nominating Ms Y to that post are annulled;
  - order the Commission to pay the costs at both instances.

### Pleas in law and main arguments

In support of the appeal, the appellant relies on two pleas in law.

1. First plea in law, alleging distortion of the facts:

— firstly, in that the CST considered that the term ‘background’ used in the vacancy notice in the contested procedure referred to experience and not to training. The appellant submits that it is apparent in particular from the vacancy notices published by the Commission that when professional experience is required, the term ‘experience’ is used rather than ‘background’;

— secondly, in that the CST considered that the term ‘regulation’ did not refer to regulatory mechanisms but to the legislative process.

2. Second plea in law, alleging errors of law, the CST having examined the indications of misuse of power in an isolated rather than global manner, without seeking to establish whether the indications taken together, given their number, made it possible to call into question the lawfulness of the decisions contested at first instance.

In addition, the appellant argues that the CST disregarded, in the light of the inequality of arms of the parties, the right to a fair hearing by refusing to adopt measures of organisation of the procedure enabling the indications of misuse of power to be emphasised and evidence to be adduced of a factor which could have been demonstrated only by such a measure.

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**Action brought on 24 January 2013 — Türkiye Garanti Bankası/OHIM — Card & Finance Consulting (bonus&more)**

**(Case T-33/13)**

(2013/C 86/37)

*Language in which the application was lodged: English*

### Parties

**Applicant:** Türkiye Garanti Bankası AS (Istanbul, Turkey) (represented by: J. Güell Serra, lawyer)

**Defendant:** Office for Harmonisation in the Internal Market (Trade Marks and Designs)

**Other party to the proceedings before the Board of Appeal:** Card & Finance Consulting GmbH (Nürnberg, Germany)

### Form of order sought

The applicant claims that the Court should:

— Annul the contested decision; and

— Order OHIM to pay the costs.

### Pleas in law and main arguments

**Applicant for a Community trade mark:** The other party to the proceedings before the Board of Appeal

**Community trade mark concerned:** The figurative mark ‘bonus&more’, for services in classes 35, 36, 38, 41 and 42 — Community trade mark application No 9 037 251

**Proprietor of the mark or sign cited in the opposition proceedings:** The applicant

**Mark or sign cited in opposition:** The International Registration of the figurative mark ‘bonusnet’, for goods and services in classes 9, 35, 36, 38 and 42 — International Registration No 931 921

**Decision of the Opposition Division:** Upheld the opposition in part

**Decision of the Board of Appeal:** Allows the appeal and rejects the opposition

**Pleas in law:** Infringement of Articles 8(1)(b) of Council Regulation No 207/2009.

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**Action brought on 22 January 2013 — Exakt Advanced Technologies v OHIM — Exakt Precision Tools (EXAKT)**

**(Case T-37/13)**

(2013/C 86/38)

*Language in which the application was lodged: German*

### Parties

**Applicant:** Exakt Advanced Technologies GmbH (Norderstedt, Germany) (represented by: A. von Bismarck, lawyer)

**Defendant:** Office for Harmonisation in the Internal Market (Trade Marks and Designs)

**Other party to the proceedings before the Board of Appeal:** Exakt Precision Tools Ltd (Aberdeen, United Kingdom)

### Form of order sought

The applicant claims that the Court should:

— Annul the decision of the First Board of Appeal of the Office for Harmonisation in the Internal Market (Trade Marks and Designs) of 29 October 2012 in Case R 1764/2011-1;

— Order the intervener to pay the costs including those incurred in the course of the appeal proceedings.