

6. Sixth plea in law: infringement of the obligation to state reasons.
7. Seventh plea in law: infringement of the rights of defence and of the right to effective judicial protection.

Action brought on 15 May 2018 — EPSU and Willem Goudriaan v Commission

(Case T-310/18)

(2018/C 259/59)

Language of the case: English

Parties

Applicants: European Federation of Public Service Unions (EPSU) (Brussels, Belgium) and Jan Willem Goudriaan (Brussels) (represented by: R. Arthur, Solicitor, and R. Palmer, Barrister)

Defendant: European Commission

Form of order sought

- annul the defendant's decision of 5 March 2018 not to propose to the Council that an EU Social Partners' Agreement of 21 December 2015 on rights of information and consultation for civil servants and employees of central government administrations, entered into under Article 155(1) TFEU, be implemented by a directive by means of a Council decision under Article 155(2) TFEU;
- order the defendant to pay the costs.

Pleas in law and main arguments

In support of the action, the applicants rely on two pleas in law.

1. First plea in law, alleging that the contested decision was an act adopted in breach of Article 155(2) TFEU. The Commission lacked power to refuse to propose that the Council implement the Agreement by Council decision, in the absence of any objection either to the representative status of the parties to the Agreement, or to the legality of the Agreement.
 - The applicants argue that the Commission's decision not to propose to the Council that the Agreement be implemented by Council decision is in breach of Article 155(2) TFEU, and contrary to the requirement for respect for the autonomy of the social partners, as enshrined in Article 152 TFEU.
 - The applicants also argue that the Commission was under a duty to make a proposal to the Council, unless it produced a reasoned basis for finding that the social partners who were party to the Agreement were not sufficiently representative, or the agreement was not lawful.
 - The applicants further maintain that the Commission entered into an assessment of the appropriateness of the Agreement, which does not fall within its powers.
2. Second plea in law, alleging that the contested decision is flawed by reasons which are manifestly mistaken and ill-grounded.
 - It is argued by the applicants that the grounds invoked by the Commission in its contested decision were not capable of justifying the refusal to make a proposal to the Council that it adopt the Agreement.
 - The applicants also argue that the only reasons which could have been capable of justifying a refusal would have been a justified objection to the representativeness of the social partners, or to the lawfulness of a Council decision implementing the Agreement as a directive.

- Furthermore the applicants maintain that the Commission failed in any event to undertake any impact assessment, and so could not have justified on grounds of proportionality or subsidiarity any conclusion to refuse to propose that the Agreement be implemented as a directive by a Council decision, even if it had been permissible in principle to do so.

Action brought on 22 May 2018 — WD v EFSA

(Case T-320/18)

(2018/C 259/60)

Language of the case: French

Parties

Applicant: WD (represented by: L. Levi and A. Blot, lawyers)

Defendant: European Food Safety Authority (EFSA)

Form of order sought

The applicant claims that the Court should:

- declare the present action admissible and well founded;
- consequently,
- annul the decision of 14 July 2017, taken by the Executive Director of EFSA in his capacity as AACC, according to which the applicant was not among the staff members promoted during the 2017 reclassification round;
 - annul the decision of the AACC of 9 February 2018 rejecting the applicant's complaint of 10 October 2017 directed against the decision of 14 July 2017;
 - annul the decision of 9 August 2017 (and notified on 10 August 2017), taken by the Executive Director of EFSA in his capacity as AACC, not to renew the applicant's employment contract;
 - annul the decision of the AACC of 12 March 2018 rejecting the applicant's complaint of 10 November 2017 directed against that decision of 9 August 2017;
 - award damages for the harm suffered;
 - order the defendant to pay all of the costs.

Pleas in law and main arguments

In support of the action, the applicant relies on seven pleas in law as regards the decision not to renew her contract.

1. First plea in law, alleging infringement of the decision of 8 December 2012 concerning employment contract management adopted by EFSA.
2. Second plea in law, alleging infringement of the obligation to state reasons.
3. Third plea in law, alleging infringement of the applicant's rights of defence and in particular the right to be heard.
4. Fourth plea in law, alleging infringement of the duty of care and of the Work instruction relating to the contract of employment renewal process adopted by EFSA.
5. Fifth plea in law, alleging manifest errors of assessment and misuse of power.