

3. Third plea in law: based on the case-law of the Court.

- The case-law of the Court requires that there be demonstrated a sufficiently serious infringement of a rule of law intended to confer rights on individuals. With respect to the requirement that the infringement must be sufficiently serious, the criterion laid down in the case-law for holding that that condition is satisfied is that the Community body concerned has manifestly and seriously exceeded the limits of the discretion conferred on it. The scale and degree of the harm that has been caused, together with the number of those harmed, can be used as a criterion in relation to whether the body involved has manifestly and seriously exceeded the limits of its discretion. It should also be pointed out that there is a sufficiently serious breach of EU law if the body has committed the fault when not exhibiting the normal degree of prudence and diligence. The ECB failed to fulfil its obligations under the Treaties and under its Statute to impose penalties on the NBG, because of its inadequate supervision of the national banks of the Member States operating in accordance with the provisions in the Treaties and in its Statute. In the event that it has not undertaken such a check we can speak of administrative inadequacies — infringement of the principle of sound management — which could be covered if the ECB had taken the appropriate measures to ‘remind’ the NBG of its duties under the Treaties and to make it known that it is not permissible to leave credit institutions without supervision, because that jeopardises the monetary stability of the European Union, which is the basic *raison d’être* of the ECB. The ECB had an obligation to review whether the NBG fulfilled its obligations as a member of the European System of Central Banks, and in the event that it found that those obligations were not fulfilled, the ECB should have adopted the appropriate measures, rather than do nothing.

Action brought on 6 August 2018 — Bezouaoui and HB Consultant v Commission

(Case T-478/18)

(2018/C 373/14)

Language of the case: French

Parties

Applicants: Hacène Bezouaoui (Avanne, France) and HB Consultant (Beure, France) (represented by: J.-F. Henrotte and N. Neyrinck, lawyers)

Defendant: European Commission

Form of order sought

- Declare the present action admissible and well founded. Consequently,
- Annul Commission Decision C(2018) 2075 final of 10 April 2018 on Case SA.46897 (2018/NN) — France presumed aid — CACES [(Handling Equipment Safe Operation Certificate)];
- Order the Commission to pay the costs.

Pleas in law and main arguments

In support of the action, the applicant relies on three pleas in law.

1. First plea in law, alleging infringement of the concept of ‘causality assessment’ referred to in Article 107 TFEU, in that the reimbursement of costs of construction plant driving safety training by State-authorized collecting bodies (Organismes paritaires de collecte agréés, OPCAs) means a use of State resources, the result of a measure attributable to the State. Thus, the applicants argue that the decision of which they seek the annulment disregards the case-law in *Pearle* (judgment of 15 July 2004, *Pearle and Others*, C-345/02, EU:C:2004:448).
2. Second plea in law, alleging infringement of the concept of ‘advantage’ referred to in Article 107 TFEU, since the measures taken by the French State in the present case give an advantage to undertakings which provides training called ‘CACES®’ (Handling Equipment Safe Operation Certificate), as opposed to those providing training called ‘PCE®’ (Machinery Driving Licence).

3. Third plea in law, alleging infringement of the concept of 'selectivity' referred to in Article 107 TFEU, since the measures taken are selective in nature. This plea in law is divided into three parts:
 - first part, alleging that the OPCAs are not entitled to discriminate between the various training courses which answer the same need and which have all been recognised by the French State;
 - second part, alleging that the interventions made by the French State have the effect of deceiving the OPCAs as to the training arrangements which meet the legal requirements and which may be reimbursed;
 - third part, alleging that the difference in treatment of the two training systems (CACES® and PCE®) is not justified by the nature or general scheme of a reference system.

Action brought on 14 August 2018 — XB v ECB

(Case T-484/18)

(2018/C 373/15)

Language of the case: English

Parties

Applicant: XB (represented by: L. Levi and A. Champetier, lawyers)

Defendant: European Central Bank (ECB)

Form of order sought

- annul the decisions of 6 November 2017 and 4 December 2017 informing the applicant that he was not entitled to certain allowances (household allowance, child allowances, education allowances and pre-school allowance);
- accordingly, order the payment of the respective amounts from the requested dates onwards, increased by late interest (ECB rate + 2 points). It should be considered that corrective payments not related to the month during which they were paid should be subject to the tax to which they would have been subject had they been made at the proper time, in accordance with Regulation (EEC, EURATOM, ECSC) No 260/68; ⁽¹⁾
- if need be, annul the decision of 5 June 2018 rejecting the applicant's grievance procedure, lodged on 29 March 2018;
- if need be, annul the decisions of 2 February 2018 rejecting the applicant's request for administrative review of 15 December 2017;
- order the defendant to pay all the costs.

Pleas in law and main arguments

In support of the action, the applicant relies on two pleas in law.

1. First plea in law, alleging that the ECB's conditions of short-term employment and its rules for short-term employment are illegal (plea of illegality).
 - The ECB's conditions of short-term employment and its rules for short-term employment infringe, first, the rights of the child and the principles of family protection and non-discrimination laid down in the Charter of Fundamental Rights of the European Union, second, the principle of non-discrimination between temporary and permanent workers, and, third, the principle of non-discrimination and of equality of taxpayers.