



## Reports of Cases

JUDGMENT OF THE EUROPEAN UNION CIVIL SERVICE TRIBUNAL  
(Third Chamber)  
9 April 2014

Case F-59/13

**Thierry Rouffaud**  
v  
**European External Action Service (EEAS)**

(Civil service — Auxiliary member of contract staff — Reclassification of contract — Pre-litigation procedure — Rule that the complaint must be consistent with the action — Amendment of the legal basis of the heads of claim)

**Application:** under Article 270 TFEU, applicable to the EAEC Treaty pursuant to Article 106a thereof, in which Mr Rouffaud seeks, in particular, annulment of the decision of the European External Action Service (EEAS) of 6 August 2012 rejecting his application to have his period of service completed as an auxiliary member of the contract staff recognised as a period of service completed as a member of the contract staff and to have his successive fixed-term employment contracts reclassified as a contract of indefinite duration.

**Held:** The action is dismissed. Mr Rouffaud is to bear his own costs and is ordered to pay the costs incurred by the European External Action Service.

### Summary

*Actions brought by officials — Prior administrative complaint — Correspondence between complaint and action — Same subject-matter and legal basis — Similar statement of submissions and factual and legal arguments showing that the official's purpose has changed — Inadmissibility (Staff Regulations, Arts 90(1) and 91(2))*

The rule of consistency between the prior administrative complaint and the action stems from Article 91(2) of the Staff Regulations. That rule is justified by the very aim of the pre-litigation procedure, which is to permit an amicable settlement of the differences which have arisen between officials and the administration. It implies in particular that, without prejudice to pleas of inadmissibility and grounds involving questions of public policy, claims for relief in an action may contain only heads of claim based on the same matters as those raised in the complaint, although those heads of claim may be developed before the Union judicature by the presentation of pleas in law and arguments which, whilst not necessarily appearing in the complaint, are closely linked to it.

Where the pleas in law in the application are similar to the arguments in the complaint, they may not be regarded as being closely linked to them if the differences basically reflect a change in the official's purpose.

Furthermore, the different view expressed by the official in his complaint might also result in that complaint being reclassified as a fresh request within the meaning of Article 90(1) of the Staff Regulations. However, in that situation, if the second request is rejected, a new complaint would be needed before an action could be brought.

(see paras 12, 15, 16)

See:

25 October 2013, T-476/11 P *Commission v Moschonaki*, para. 73 and the case-law cited therein