Reports of Cases

JUDGMENT OF THE GENERAL COURT (Appeal Chamber)
15 July 2015

Case T-457/14 P

Thierry Rouffaud
v
European External Action Service (EEAS)

(Appeal — Civil service — Auxiliary member of the contract staff — Reclassification of contract — Rule of correspondence between the application and the complaint — Article 91(2) of the Staff Regulations of Officials)

Appeal: against the judgment of the European Union Civil Service Tribunal (Third Chamber) of 9 April 2014 in *Rouffaud* v *EEAS* (F-59/13, ECR-SC, EU:F:2014:49), seeking to have that judgment set aside.

Held: The judgment of the European Union Civil Service Tribunal (Third Chamber) of 9 April 2014 in *Rouffaud* v *EEAS* (F-59/13, ECR-SC, EU:F:2014:49) is set aside. The case is referred back to the Civil Service Tribunal. The costs are reserved.

Summary

Actions brought by officials — Prior administrative complaint — Correspondence between the complaint and the action — Same subject-matter and legal basis — Submissions and arguments not made in the complaint but closely related to it — Admissibility
(Staff Regulations, Arts 90 and 91)

The rule of correspondence between a complaint under Article 91(2) of the Staff Regulations and the subsequent action requires that, for a plea before the Union judicature to be admissible, it must have already been raised in the pre-litigation procedure, enabling the authority empowered to conclude contracts of employment to know the criticisms made by the person concerned of the contested decision. That rule is justified by the very aim of the pre-litigation procedure, the object of which is to permit an amicable settlement of the differences which have arisen between the officials and other staff in question, on the one hand, and the administration on the other. It follows that claims before the Union judicature 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.

Accordingly, complaints must not be interpreted restrictively but must, on the contrary, be considered with an open mind. In that respect, the content of the act takes precedence over its form. Consequently, when considering the scope of the heads of claim contained in the complaint, it is not sufficient to focus solely on the formal request made by the complainant in that complaint.

Moreover, if the pre-litigation procedure provided for in Article 91(2) of the Staff Regulations is to achieve its purpose, the administration must be in a position to know with sufficient precision the criticisms formulated by the persons concerned against the contested decision. The administration must therefore be in a position to know with sufficient certainty the complaints or requests of the person concerned in order to be able to seek an amicable settlement.

(see paras 24, 28, 32)

See:

Judgment of 29 June 2000 in *Politi* v *ETF*, C-154/99 P, ECR, EU:C:2000:354, para. 17

Judgments of 25 October 2013 in *Commission* v *Moschonaki*, T-476/11 P, ECR-SC, EU:T:2013:557, paras 71 to 73 and 76 to 78 and the case-law cited therein, and 14 July 1998 in *Brems* v *Council*, T-219/97, ECR-SC, EU:T:1998:165, para. 45 and the case-law cited therein