Pleas in law and main arguments

The applicant, a Commission official suffering from a sickness which she claims forced her absence from work, challenges the decisions of the appointing authority to treat her successive absences from 19 October 2006 as unauthorised and to therefore apply Article 60 of the Staff Regulations of Officials of the European Communities ('the Staff Regulations') with regard to her.

The applicant first submits that the arbitration procedure initiated on the basis of Article 59 of the Staff Regulations took place in breach of her right to a fair hearing and the rule of *audi alteram partem*. What is more, the report of the independent doctor did not give sufficient reasons and was vitiated by a manifest error of assessment.

The applicant also maintains that the decision forcing her to go to the workplace, in the light of current scientific opinion, infringes the principle of taking precautions.

Action brought on 8 October 2007 — Hoppenbrouwers v Commission

(Case F-104/07)

(2007/C 283/83)

Language of the case: French

Parties

Applicant: Micheline Hoppenbrouwers (Dilbeek, Belgium) (represented by: L. Vogel, lawyer)

Defendant: Commission of the European Communities

Form of order sought

— annul the decision of the Authority Responsible for Concluding Contracts of Employment of 25 June 2007 rejecting the applicant's complaint of 16 March 2007 against the administrative decision notified on 18 December 2006 refusing to employ the applicant as a member of the contract staff under Article 2(1) of the Annex to the Conditions of Employment of Other Servants (CEOS);

— Insofar as is necessary, annul also the said decision of 18 December 2006;

— Order the Defendant to pay the costs.

Pleas in law and main arguments

The first plea in law in the action is derived from the infringement of Article 82(3)(d) of the CEOS, Article 83 of the CEOS, Article 33 of the Staff Regulations of Officials of the European Communities and Article 2(1) of the Annex to the CEOS as well as from a manifest error of assessment.

The applicant states, first, that the administration refused to offer her a contract as a member of the contract staff for an indefinite period because she was in a state of temporarily unfitness to work on 1 May 2005, the date which, according to the Authority Responsible for Concluding Contracts of Employment, was the final date for contracts for members of the contract staff to take effect under the transitional measures provided for by Article 2(1) of the Annex to the CEOS. The applicant submits that only a permanent unfitness to work could justify the rejection of her candidature.

The second plea in law in the action is derived from an infringement of the principle of non-discrimination, inasmuch as the applicant was, without legitimate or reasonable justification, unfairly disadvantaged in comparison with other persons who, having worked, like the applicant, in nurseries and after-school childcare pursuant to a contract governed by Belgian law, benefited from a contract as a member of the contract staff for an indefinite period.