

Operative part of the order

1. *The action is dismissed as inadmissible.*
2. *The parties shall bear their own costs.*

(¹) OJ C 315, 22.12.2007, p. 46.

Action brought on 22 October 2007 — Strack v Commission

(Case F-119/07)

(2008/C 183/63)

Language of the case: German

Parties

Applicant: Guido Strack (Cologne, Germany) (represented by: H. Tettenborn, lawyer)

Defendant: Commission of the European Communities

Form of order sought

- Annul the Commission's decisions of 30 May 2005, 19 December 2006, 12 January 2007 and 20 July 2007 in so far as they reject the conduct of an independent mediation procedure in respect of all existing disputes between the applicant and the defendant and immediate intervention by the defendant and the adoption of dispute resolution measures;
- annul the Commission's decisions of 26 February 2007 and 20 July 2007 in so far as they refuse payment of a provisional allowance pursuant to Article 19(4) of the Common Rules on insurance against the risk of accident and of occupational disease;
- order the Commission to pay appropriate damages to the applicant of at least EUR 15 000 for the non-material damage and damage to health caused to the applicant by the decisions sought to be annulled in accordance with the above applications, together with interest, from the date on which the action was brought, at a rate of 2 percentage points per year above the main refinancing operations rate fixed by the European Central Bank for the period in question;
- order the Commission to pay the costs.

Pleas in law and main arguments

The first and second heads of claim in the applicant's application are based on the breach of the duty of care owed to the applicant by the defendant, on the principle of good administration and on the prohibition of abuse of discretion, or errors of assessment in the contested Commission decisions. In addition, as regards the first two heads of claim, the applicant objects on the basis that the decisions are contrary to the second sentence of the second paragraph of Article 25 of the Staff Regulations of Officials of the European Communities ('the Staff Regulations') and in breach of his fundamental rights to respect for physical integrity and for private life which are protected by Articles 3(1) and 7 (also, with regard to the second head of claim, by Articles 41 and 47) of the Charter of Fundamental Rights, and by Article 8 (and also by Article 13, as regards the second head of claim) of the European Convention on Human Rights.

With regard to the second head of claim, the applicant also objects on the basis that the contested decisions infringe Article 73 of the Staff Regulations and the procedural provisions of the Rules on insurance against the risk of accident and of occupational disease, in particular Article 15 *et seq.* thereof.

In his third head of claim, the applicant submits that, on the basis of what he regards as the defendant's administrative error, he is entitled, in accordance with the second paragraph of Article 288 of the EC Treaty and general principles of law, to receive appropriate compensation for the non-material damage suffered by him.

By the fourth head of claim, the applicant asks the Tribunal to order the defendant to pay the costs of the proceedings, the latter having triggered the present action by making allegedly untrue statements, in its rejection of the complaint, concerning the position allegedly taken by the medical committee.

Action brought on 31 October 2007 — Baniel-Kubinova and Others v Parliament

(Case F-131/07)

(2008/C 183/64)

Language of the case: French

Parties

Applicants: Barbora Baniel-Kubinova and Others (Luxembourg, Luxembourg) (represented by: S. Orlandi, A. Coolen, J.-N. Louis and É. Marchal, lawyers)

Defendant: European Parliament