

- in so far as necessary, declare that there is no legal basis for or, in the alternative, annul the note of 11 September 2008;
- in so far as necessary, declare that there is no legal basis for or, in the alternative, annul the act rejecting the complaint of 3 November 2008;
- confirm that, on 8 April 2002, Commission staff entered the applicant's lodgings, took photographs and made a record of certain items, and confirm and declare that such acts are unlawful;
- order the Commission to provide the applicant in writing with a list of each individual item of documentation that is relevant to the above acts;
- order the Commission to arrange for the documentation, including the photographs, to be notified to the applicant in writing;
- order the Commission to arrange for the physical destruction of the documentation and to notify the applicant of that destruction;
- order the Commission to pay to the applicant by way of compensation for the damage thereby arising the sum of EUR 225 000 or such greater or lesser sum as the Tribunal may consider fair and just, being: (a) EUR 100 000 for the damage arising as a result of the unlawful entering of his lodgings; (b) EUR 100 000 for the damage arising as a result of photographs being taken unlawfully; (c) EUR 25 000 for the damage arising as a result of the unlawful act of taking a record of certain items forming part of the applicant's personal effects;
- order the Commission to pay to the applicant, with effect from the date following that on which the request of 24 April 2008 was received by the Commission until actual payment of the sum of EUR 225 000, interest on that sum at the rate of 10 % per annum, with annual capitalisation;
- order the Commission to pay to the applicant by way of compensation for the damage suffered by the applicant resulting from the failure to provide the list of documentation, with effect from tomorrow until the day on which the list of documentation is provided to the applicant, the sum of EUR 100 per day, or such greater or lesser sum as the Tribunal may consider fair and just, to be paid on the first day of the month following delivery of judgment in this case as regards the sums already accrued in respect of the period between tomorrow and the last day of the month in which judgment is delivered in this case and on the first day of each month following that in which the judgment is delivered in respect of rights accrued during the previous month;
- order the Commission to pay to the applicant, by way of compensation for the damage suffered by the applicant resulting from the failure physically to destroy the documentation, with effect from tomorrow until the day on which the documentation is physically destroyed, the sum of EUR 100 per day, or such greater or lesser sum as the

Tribunal may consider fair and just, to be paid on the first day of the month following delivery of judgment in this case as regards the sums already accrued in respect of the period between tomorrow and the last day of the month in which judgment is delivered in this case and on the first day of each month following that in which the judgment is delivered in respect of rights accrued during the previous month;

- order the Commission to repay to the applicant all costs, fees and other expenses incurred in the proceedings, including those relating to the preparation of an expert's report;
- order the Commission to bear the costs relating to the preparation of the report of any expert it may instruct.

Action brought on 13 June 2009 — De Nicola v EIB

(Case F-59/09)

(2009/C 205/91)

Language of the case: Italian

Parties

Applicant: Carlo De Nicola (Strassen, Luxembourg) (represented by: L. Isola, lawyer)

Defendant: European Investment Bank

Subject-matter and description of the proceedings

First, annulment of the measure adopted by the Appeals Committee on 14 November 2008 or the amendment of that measure in so far as it attributes to the applicant, instead of to his lawyer, the objection made to the three members of the committee. Second, annulment of the promotions decided upon on 29 April 2008, in so far as the applicant was not considered for promotion, and all related measures. Lastly, a declaration that the applicant was the victim of mobbing and an order that the defendant desist from such activity.

Form of order sought

- Annul the measure of the Appeals Committee and, in any event, amend it in so far as it attributes to Mr De Nicola (instead of to his lawyer) the objection made to the three members of the committee and in so far as it states that the grounds of the objection were 'nothing more than a simple challenge to the decision of 14 December 2007', rather than the result of the admissions and abandonment of his claims which those three members wrongly attributed to Mr De Nicola;

- annul the promotions of 29 April 2008 on the basis that they were decided upon without the applicant being considered for promotion, and all related, consequent and prior measures, including the assessment for 2007 and, if appropriate, declare that the restrictions imposed by the instructions given by the HR Directorate are unlawful;
- declare that the applicant was the victim of mobbing and, accordingly,
- order the EIB to desist from the mobbing and to pay compensation for the consequent personal, material and non-material damage suffered by the applicant and to pay the costs of the proceedings together with interest and monetary revaluation of the sums awarded.

- order the Commission to pay in full the sums not paid to the applicant since 1 January 2009, such sums to take account of indexation, together with interest;
- order the defendant to pay the costs.

Action brought on 26 June 2009 — Donati v ECB

(Case F-63/09)

(2009/C 205/93)

Language of the case: French

Parties

Applicant: Paola Donati (Frankfurt on Main, Germany) (represented by: L. Levi, M. Vandebussche, lawyers)

Defendant: European Central Bank

Subject-matter and description of the proceedings

Annulment of the ECB's decision not to take further action on the claims relating to alleged psychological harassment suffered by the applicant, and compensation for the non-material harm suffered.

Form of order sought

The applicant claims that the Tribunal should:

- annul the decision of the Board of Directors of 16 December 2008 in so far as it involves a threat and an attempt to intimidate the applicant;
- annul the decision of the Board of Directors of 16 December 2008 in so far as it does not contain a decision on the result of the administrative investigation and on the final outcome of the applicant's complaint; in the alternative, annul the Board of Director's decision of 16 December 2008 in so far as it contains an 'implied' decision to take no further action on the applicant's complaint and not to adopt subsequent measures, in particular not to open disciplinary proceedings;
- annul, so far as is necessary, the decision of 16 April 2008 rejecting the applicant's 'special appeal';
- order the defendant to pay compensation for the non-material harm suffered, assessed on equitable principles at EUR 10 000;
- order the European Central Bank to pay the costs.

Action brought on 24 June 2009 — Birkhoff v Commission

(Case F-60/09)

(2009/C 205/92)

Language of the case: Italian

Parties

Applicant: Gerhard Birkhoff (Weitnau, Germany) (represented by: C. Inzillo, lawyer)

Defendant: Commission of the European Communities

Subject-matter and description of the proceedings

Annulment of the decision rejecting the applicant's request seeking the extension of the application of Article 2(5) of Annex VII of the Staff Regulations for the benefit of his daughter with effect from 1 January 2009 and an order that the Commission pay the sums due under that provision with effect from 1 January 2009.

Form of order sought

- Declare to be unlawful and, accordingly, annul the decision of the appointing authority of 2 April 2009 in so far as it is unlawful and manifestly unfounded in fact and in law, and any subsequent act and/or decision taken prior to that decision, which is connected or consequential to it, and in particular the decision of 14 November 2008 issued by PMO4;