

Action brought on 4 November 2009 — Ernotte v Commission

(Case F-90/09)

(2010/C 11/78)

*Language of the case: French***Parties***Applicant:* Frédéric Ernotte (Brussels, Belgium) (represented by: L. Defalque, lawyer)*Defendant:* European Commission**Subject-matter and description of the proceedings**

Action for an order against the Commission to make good the material and non-material loss which the applicant suffered as a result of the procedure for handling his case concerning the recognition of the accidental origin of the infarct which he suffered.

Form of order sought

- order the Commission to pay to the applicant the sum of EUR 96 579 175 (increased by default interest calculated using the base rate fixed by the European Central Bank for its main refinancing operations increased by two percentage points, from 1 January 2006) as compensation for the material loss he suffered as a result of the off-handedness and the unreasonable period in which the Commission handled its case concerning the recognition of the accidental origin of the infarct which he suffered on 28 August 2002;
- award damages for the non-material loss suffered by the applicant assessed provisionally *ex aequo et bono* at EUR 5 000, subject to that figure being increased or decreased in the course of the proceedings;
- order the European Commission to pay the costs.

Action brought on 30 October 2009 — Marcuccio v Commission

(Case F-91/09)

(2010/C 11/79)

*Language of the case: Italian***Parties***Applicant:* Luigi Marcuccio (Tricase, Italy) (represented by: G. Cipressa, lawyer)*Defendant:* Commission of the European Communities**Subject-matter and description of the proceedings**

Annulment of the Commission's decision rejecting the applicant's request for compensation for damage suffered as a result of a letter by which the Commission asked a doctor to carry out a medical examination in order to assess the applicant's actual fitness for work.

Form of order sought

- Declare that there is no legal basis for or, in the alternative, annul the decision, which was in fact an implied decision, by which the Commission rejected the request of 9 September 2008;
- in so far as necessary, declare that there is no legal basis for or, in the alternative, annul the act, in whatever form, by which the Commission rejected the complaint of 16 March 2009 against the decision rejecting the request of 9 September 2008;
- in so far as necessary, declare that there is no legal basis for or, in the alternative, annul note ADMIN.B.2/MB/ks/D(09) 16349 of 30 June 2009;
- in so far as necessary, confirm that a Commission official:
 - (a) sent or arranged to be sent to the Direttore A.S.L. Le 2 — Maglie the note of 9 December 2003 concerning 'Medical examination in Tricase (Le)';
 - (b) asked him to arrange for the applicant to have a medical examination;
 - (c) informed him that, by reason of an extended period of illness (more than 365 days), a procedure had been initiated (Invalidity Committee) to assess whether or not the applicant was fit for work;
 - (d) expressed to him his opinion, which was wholly unfounded, that the applicant 'had employed numerous delaying tactics in order to stall the convening of the Invalidity Committee, all of which were rejected by the competent department of the European Commission as lacking in justification';
 - (e) informed him that the applicant 'has been invited to attend a medical examination in Brussels on Monday 8 December 2003';
 - (f) gave him the name of the person appointed to represent the institution on the Invalidity Committee;
 - (g) informed him that, by 9 December 2003, 'no medical certificate ha[d] been sent by fax to the Commission's Medical Service';
 - (h) expressed to him his opinion, which was wholly unfounded, that the applicant should have sent a medical certificate by fax to the Commission's Medical Service to justify his failure to attend the medical examination which should have taken place in Brussels on 8 December 2003;
 - (i) attached two documents to the note of 9 December 2003, the first relating to the alleged referral of the applicant's case to the Invalidity Committee and the second summoning the applicant to attend a medical examination;