

Pleas in law and main arguments

In support of the appeal, the appellant relies on the following plea in law.

Infringement of European Union law, and in particular the division of competences between the General Court and the Civil Service Tribunal as a specialised court as apparent from Article 270 TFEU read in conjunction with Article 91(1) of the Staff Regulations of Officials of the European Union, Article 8(3) of Regulation (EC) No 1049/2001,⁽¹⁾ the first sentence of Article 256(1) TFEU and Article 62a and Article 1 of Annex 1 to the Statute of the Court of Justice of the European Union.

— According to those provisions, the Civil Service Tribunal does not enjoy general jurisdiction in respect of all disputes between the European Union and any person to whom the Staff Regulations apply but only in respect of those disputes which concern the legality of an act which adversely affects such person within the meaning of Article 90(2) of the Staff Regulations.

— Where an official submits an application for access to documents, he is acting as an ordinary citizen for the purposes of Regulation No 1049/2001. A specific system of remedies is available to him under the Regulation in the form of an action for annulment before the General Court. The system of remedies according to the Staff Regulations and the Transparency Regulation are purely and simply incompatible.

⁽¹⁾ Regulation (EC) No 1049/2001 of the European Parliament and of the Council of 30 May 2001 regarding public access to European Parliament, Council and Commission documents (OJ 2001 L 145, p. 43).

Action brought on 28 March 2011 — Transports Schiocchet — Excursions v Council and Commission

(Case T-203/11)

(2011/C 186/51)

Language of the case: French

Parties

Applicant: Transports Schiocchet — Excursions (Beuvillers, France) (represented by: É. Deshoulières, lawyer)

Defendants: Council of the European Union and European Commission

Form of order sought

- Order the Council of the European Union and the European Commission jointly to compensate SARL Tarnsports Schiocchet — Excursions for the loss it has suffered, amounting to EUR 8 372 483;
- Rule that the sums thus awarded are to bear interest at the statutory rate to run from notification of the preliminary claim for compensation to the European Commission;
- Order the Council of the European Union and the European Commission to pay the costs incurred by the applicant, on the basis of Article 87 of the Rules of Procedure of the General Court.

Pleas in law and main arguments

In support of the action, the applicant relies on two pleas in law.

1. First plea in law, alleging infringement of the right to be heard by a court and, in particular, of the obligation of the bodies of the European Union to make it possible to obtain an effective remedy in the event of infringement of rights afforded to individuals by European Union law. The applicant points to the lack, firstly, of sanctions on Member States and transporters unwilling to comply with the authorisation procedure instituted by Council Regulation (EEC) No 684/92 and, secondly, of any system of compensation for transporters who do undergo that authorisation procedure.
2. Second plea in law, alleging infringement of Articles 94 TFEU to 96 TFEU in that the Commission was required to ensure proper application of Council Regulation (EEC) No 684/92,⁽¹⁾ efficiently to apprehend operators which had not undergone the authorisation procedure laid down in that regulation and to put an end to the discrimination caused by application of the regulation. The applicant refers to the fact that necessary measures were not taken by the Commission with regard to implementing the regulation in question despite a number of complaints made by the applicant, due to which it is shown that the Commission was aware of the situation. The defendant's failure to act, when effectively it was aware of the situation adversely affecting the applicant, constitutes a serious and manifest failure to fulfil obligations leading to a sufficiently serious infringement of Articles 94 TFEU to 96 TFEU.

⁽¹⁾ Council Regulation (EEC) No 684/92 of 16 March 1992 on common rules for the international carriage of passengers by coach and bus (OJ 1992 L 74, p. 1).