

Judgment of the Civil Service Tribunal of 16 January 2007
— Gesner v OHIM

(Case F-119/05) ⁽¹⁾

(Officials — Invalidity — Refusal of request for the establishment of an Invalidity Committee)

(2007/C 42/81)

Language of the case: Spanish

Parties

Applicant: Charlotte Gesner (Birkerød, Denmark) (represented by: J. Vázquez Vázquez and C. Amo Quiñones, lawyers)

Defendant: Office for Harmonisation in the Internal Market (represented by: I. de Medrano Caballero, Agent)

Re:

Staff case — Annulment of the decision of OHIM of 2 September 2005 refusing the applicant's request for the establishment of an Invalidity Committee to evaluate her inability to perform the duties corresponding to a post in her function group, and her right to claim invalidity allowance

Operative part of the judgment

The Tribunal:

1. Annuls the decision of 21 April 2005 by which the Office for Harmonisation in the Internal Market (Trade Marks and Designs) (OHIM) refused Ms Gesner's request for the establishment of an Invalidity Committee;
2. Orders OHIM to pay the costs.

⁽¹⁾ OJ C 96, 22.4.2006, p. 34.

Judgment of the Civil Service Tribunal (First Chamber) of 16 January 2007 — Borbély v Commission

(Case F-126/05) ⁽¹⁾

(Officials — Reimbursement of expenses — Installation allowance — Daily subsistence allowance — Travel expenses on taking up an appointment — Place of recruitment — Unlimited jurisdiction)

(2007/C 42/82)

Language of the case: English

Parties

Applicant(s): Andrea Borbély (Brussels, Belgium) (represented by: R. Stötzel, lawyer)

Defendant: Commission of the European Communities (represented by: J. Currall and H. Kraemer, agents)

Re:

Annulment of the decision of the Commission refusing the applicant the benefit of the installation allowance and the daily subsistence allowance and reimbursement of travel expenses following the establishment of her place of recruitment as Brussels

Operative part of the judgment

The Tribunal:

1. Declares that the decision of the Commission of the European Communities of 2 March 2005 is annulled in so far as it refuses to grant the applicant the installation allowance provided for in Article 5(1) of Annex VII to the Staff Regulations and the daily subsistence allowance provided for in Article 10(1) of that Annex;
2. Orders the Commission of the European Communities to pay the applicant, in accordance with the rules of the Staff Regulations in force, those allowances plus default interest, from the dates on which they were payable respectively and up to the date of their payment, at the rate set by the European Central Bank for its main refinancing transactions, as applicable during the relevant period, increased by two points;
3. Dismisses the action as to the remainder;
4. Orders each party to bear its own costs.

⁽¹⁾ OJ C 60, 11.3.2006, p. 54.

Judgment of the Civil Service Tribunal (First Chamber) of 16 January 2007 — Frankin and Others v Commission

(Case F-3/06) ⁽¹⁾

(Officials — Obligation on the administration to provide assistance — Refusal — Transfer of pension rights acquired in Belgium)

(2007/C 42/83)

Language of the case: French

Parties

Applicants: Jacques Frankin (Sorée, Belgium) and Others (represented by: G. Bouneou and F. Frabetti, lawyers)

Defendant: Commission of the European Communities (represented by: L. Lozano Palacios and D. Martin, Agents)

Re:

First, annulment of the Commission's decision rejecting the requests for assistance submitted by the applicants in connection with the transfer of their pension rights acquired in Belgium and, secondly, an application for damages.

Operative part of the judgment

The Tribunal:

1. Dismisses the action;
2. Orders each party to bear its own costs.

(¹) OJ C 74, 25.3.2006, p. 33.

Action brought on 27 December 2006 — Dragoman v Commission

(Case F-147/06)

(2007/C 42/84)

Language of the case: French

Parties

Applicant: Adriana Dragoman (Brussels, Belgium) (represented by: S. Mihailescu, lawyer)

Defendant: Commission of the European Communities

Form of order sought

- annul the decision of the selection board of Open Competition EPSO/AD/44/06-CJ for the constitution of a reserve for future recruitment of lawyer-linguists having Romanian as their principal language to award a mark of 18/40 for written test (b) to the applicant and not to admit her to the oral test of that competition;
- order the defendant to pay the costs.

Pleas in law and main arguments

In support of her action, the applicant raises two pleas in law, the first of which is divided into two branches. The first refers to the infringement of the rules governing the work of the selection board, in that it assessed the tests by taking account rather of the comprehension of the source languages than of the precision of the translation into Romanian. The second refers to the infringement of the provisions of the competition notice relating to proper establishment and publication of the names of the members of the selection board. Such publication took place three days before the date of the tests, whereas the competition notice provided for a minimum of 15 days.

In her second plea, the applicant alleges breach of the principle of the obligation to state reasons, insofar as the assessment carried out by the selection board gives no precise details regarding the parameters used in correction of the tests.

Action brought on 28 December 2006 — Collée v Parliament

(Case F-148/06)

(2007/C 42/85)

Language of the case: French

Parties

Applicant: Laurent Collée (Luxembourg, Luxembourg) (represented by: S. Orlandi, J.-N. Louis, A. Coolen and E. Marchal, lawyers)

Defendant: European Parliament

Form of order sought

The applicant claims that the Tribunal should:

- declare the illegality of paragraph I.3 of the 'Instructions on the procedure for the allocation of promotion points' of the European Parliament of 13 June 2002;
- annul the Appointing Authority's decision of 9 January 2006 to allocate two merit points to the applicant under the 2004 promotion procedure;
- order the defendant to pay the costs.

Pleas in law and main arguments

The applicant, a European Parliament official in Grade AST 8, criticises the Appointing Authority for failing to carry out an examination of comparative merits which included all officials of the institution who were eligible for promotion and were classified in the same grade as the applicant. He alleges, *inter alia*, breach of Articles 5 and 45 of the Staff Regulations and infringement of the principle of equal treatment and non-discrimination. The contested decision, he argues, is also vitiated by a manifest error of assessment and a failure to give reasons.

The applicant pleads, lastly, that paragraph I.3 of the abovementioned Instructions, which concerns the exceptional allocation of promotion points by the Secretary-General, is illegal. In particular, the restrictions imposed by that provision on the Secretary-General do not comply with Article 45 of the Staff Regulations and the principle of equal treatment.