

8. Eighth plea in law, alleging infringement of acquired rights.

(¹) Council Directive 91/533/EEC of 14 October 1991 on an employer's obligation to inform the employees of the conditions applicable to the contract or employment relationship directive (OJ 1991 L 288, p. 32).

Appeal brought on 21 February 2014 by Catherine Teughels against the judgment of the Civil Service Tribunal of 11 December 2013 in Case F-117/11 *Teughels v Commission*

(Case T-131/14 P)

(2014/C 159/39)

Language of the case: French

Parties

Appellant: Catherine Teughels (Eppegem, Belgium) (represented by L. Vogel, lawyer)

Other party to the proceedings: European Commission

Form of order sought by the appellant

The appellant claims that the General Court should:

- set aside entirely the judgment under appeal, delivered on 11 December 2013 by the European Union Civil Service Tribunal sitting in full court, notified by fax of 11 December 2013, whereby it dismissed the action brought by the appellant dated 8 November 2011;
- examine the substance of the action brought by the appellant before the Civil Service Tribunal, find the action to be well founded and, consequently, annul the decisions which were the subject-matter of that action;
- order the respondent to pay the costs of the proceedings, under Article 87(2) of the Rules of Procedure, including essential expenses incurred for the purposes of the proceedings, and particularly the costs of maintaining an address for service, the travel and subsistence expenses and the remuneration of the lawyers, under Article 91(b) of the Rules of Procedure.

Grounds of appeal and main arguments

In support of the appeal, the appellant relies on two grounds.

1. First ground based on a claimed infringement of Article 11(2) of Annex VIII to the Staff Regulations of Officials of the European Union ('the Staff Regulations') and Article 26(1) and (4) of Annex XIII to the Staff Regulations, a disregard of acquired rights and infringement of the principles of legal certainty and non-retroactivity, and a failure to state reasons. The appellant claims that:
 - the Civil Service Tribunal gave retroactive effect to the general implementing provisions adopted in 2011 relating to Articles 11 and 12 of Annex VIII to the Staff Regulations on the transfer of pension rights by deciding that, in order to determine the number of years of pensionable service corresponding, under the Community pension scheme, to the actuarial equivalent of the appellant's pension rights under the Belgian pension scheme, the appointing authority could properly apply the 2011 general implementing provisions on the ground that at the date when those provisions entered into force, the appellant was not in a situation which was 'fully constituted' under the 2004 general implementing provisions, since she had not accepted the proposed calculation which had prior to that date been communicated to her, notwithstanding that the application for transfer of pension rights had been made in November 2009, that the appellant's rights had therefore definitively crystallised on that date and that they had consequently to be determined by applying the 2004 general implementing provisions;
 - the Civil Service Tribunal did not provide any legal basis for its analysis and did not explain on what ground the Staff Regulations provisions relied on by the appellant in her application at first instance and the principles enshrined therein should be disregarded in this case.

2. Second ground based on a claimed infringement of the principles of legal certainty and '*patere legem quam ipse fecisti*', a disregard of acquired rights, failure to state reasons and disregard of the authority and binding force stemming from any administrative measure pertaining to an individual, and more particularly the decision adopted with regard to the appellant on 29 June 2010. The appellant claims that:
- the Civil Service Tribunal held, wrongly, that the situation of the appellant was not fully constituted under the 2004 general implementing provisions at the date when the 2011 general implementing provisions entered into force, on the ground that the appellant had not 'either accepted or refused formally' the proposed calculation communicated to her on 29 June 2010, although that proposed calculation constituted a genuine administrative decision, definitively affecting the rights of the appellant;
 - the authority could not, unilaterally, restrict the rights which followed from the proposed calculation, which was legally binding on it;
 - the Civil Service Tribunal disregarded the principle that the question whether a unilateral decision of the Commission is definitive and binding does not depend on the agreement of the person to whom it is addressed.

Action brought on 27 February 2014 — Chart v EEAS

(Case T-138/14)

(2014/C 159/40)

Language of the case: French

Parties

Applicant: Randa Chart (Woluwé-Saint-Lambert, Belgium) (represented by: T. Bontinck and A. Guillerme, lawyers)

Defendant: European External Action Service (EEAS)

Form of order sought

- Declare that EEAS is liable for the harm suffered by the applicant between October 2001 and present by reason of the unlawful conduct of the European Union Delegation in Cairo and the EEAS;
- In consequence:
 - principally, pay Ms Chart the sum of EUR 509 283,88 (five hundred and nine thousand and two hundred and eighty-three euros and eighty-eight cents) as damages in respect of the harm suffered, subject to any increase during the proceedings;
 - in the alternative, pay Ms Chart the sum of EUR 380 063,81 (three hundred and eighty thousand and sixty-three euros and eighty-one cents) as damages for the harm suffered since 30 October 2008, subject to any increase during the proceedings;
- Order the defendant to pay the costs.

Pleas in law and main arguments

The applicant, a former member of the local staff at the European Union Delegation in Egypt, seeks compensation for a loss which she suffered as a result of unlawful conduct by the European administration consisting of its failure to issue a termination of service certificate in respect of the applicant to the social security services of the Egyptian administration after her resignation. That fact prevents the applicant from returning to work in Egypt.

As regards the defendant's unlawful conduct complained of, the applicant raises four pleas in law, alleging infringement of the principle of sound administration, infringement of the principle of reasonable time, infringement of Egyptian law and infringement of the right to privacy.

The applicant argues that the defendant's failure to act causes her serious harm and seeks compensation for both the material and non-pecuniary harm.
