

In its application, the applicant claims that the defendant's administrative and normative conduct during, prior to and following the end of the anti-dumping proceedings concerning imports of CD-Rs from the People's Republic of China, Hong Kong and Malaysia infringed — repeatedly and in a manner that was sufficiently serious — important provisions in anti-dumping law which are intended to confer rights on the applicant. Further, the applicant claims that those sufficiently serious infringements of the law on the part of the Commission caused the applicant significant damage. Finally, the applicant claims that there is a direct causal link between those serious infringements of the law and the damage that has already been caused and the damage still to be expected.

⁽¹⁾ Commission Decision of 3 November 2006 terminating the anti-dumping proceeding concerning imports of recordable compact discs (CD+/-R) originating in the People's Republic of China, Hong Kong and Malaysia (OJ 2006 L 305, p. 15).

Appeal brought on 16 July 2008 by P. Longinidis against the judgment of the Civil Service Tribunal delivered on 24 April 2008 in Case F-74/06 Pavlos Longinidis v Cedefop

(Case T-283/08 P)

(2008/C 272/54)

Language of the case: Greek

Parties

Appellant: Pavlos Longinidis (represented by P. Giatagantzidis and S. Stavropoulou, lawyers)

Other party to the proceedings: Cedefop

Form of order sought by the appellant

- set aside the judgment of the European Union Civil Service Tribunal of 24 April 2008 in Case F-74/06 *Pavlos Longinidis v Cedefop*;
- annul the decision of the Director of Cedefop of 30 November 2005 terminating the appellant's employment contract of indefinite duration of 4 March 2003, and any other related administrative act;
- annul the decision of the Director of Cedefop of 11 November 2005 amending the composition of the Appeals Committee of Cedefop, and any other related administrative act;
- annul the decision of the Appeals Committee of Cedefop of 24 May 2006 rejecting the appellant's complaint of 28 February 2006, and any other related administrative act;

- uphold the action brought by the appellant on 19 June 2006;
- order Cedefop to pay the costs of both the case at first instance and the appeal.

Pleas in law and main arguments

By his action, the appellant sought, *inter alia*, the annulment of the decision of the Director of Cedefop terminating his employment contract of indefinite duration. That action was dismissed by judgment of the Civil Service Tribunal of 24 April 2008.

The appellant submits that the judgment under appeal was delivered in breach of the rules that govern the bringing of evidence because it was based on matters that were not proved. More specifically, when examining the appellant's argument that the reasons for dismissal were communicated to him orally at the meeting on 23 November 2005, the Civil Service Tribunal erred in law because it altered the subject of the evidence.

In addition, the appellant contends that the reasoning set out in the judgment under appeal is not adequate. In particular, he asserts that the Civil Service Tribunal's reasoning was not adequate when it decided whether the appellant was appropriately and sufficiently informed by Cedefop as to the reasons for his dismissal and that the Tribunal did not specify all the facts which in its view led to his dismissal.

Finally, the appellant submits that his complaint of 28 February 2006 challenging the decision to dismiss him was not heard by the Appeals Committee of Cedefop in an objective and impartial manner.

Action brought on 24 July 2008 — BASF Plant Science and Others v Commission

(Case T-293/08)

(2008/C 272/55)

Language of the case: English

Parties

Applicants: BASF Plant Science GmbH (Ludwigshafen, Germany), Plant Science Sweden AB (Svalöv, Sweden), Amylogene HB (Svalöv, Sweden) and BASF Plant Science Holding GmbH (Ludwigshafen, Germany) (represented by: D. Waelbroeck, lawyer, U. Zinsmeister, lawyer and D. Slater, Solicitor)

Defendant: Commission of the European Communities

Form of order sought

- To declare the present application admissible and well founded;
- To declare that, by failing to take the necessary measures provided for in Article 18 of Directive 2001/18/EC of 12 March 2001 and in Article 5 of Council Decision 1999/468/EC of 28 June 1999 and adopt the Amflora Decision, the Commission has failed to fulfil its obligations under these articles; alternatively
- To order the annulment of the Commission decision granting a mandate to EFSA 'for a consolidated opinion on use of antibiotic resistant marker genes (ARM) used as marker genes in genetically modified plants', dated 14 May 2008 and the suspension of the procedure leading to the adoption of the Amflora Decision, notified to the applicants by letter dated 19 May 2008;
- To grant the requested measures of instruction;
- To order the defendant to pay all costs and expenses incurred in these proceedings.

Pleas in law and main arguments

The applicants claim that the Commission, by failing to adopt a decision on the request for authorisation to place a genetically modified potato ('Amflora potato') on the market for industrial uses under Directive 2001/18/EC ⁽¹⁾, has disregarded its obligations under Article 18(1) of the said directive and Article 5(6) of Council Decision 1999/468/EC ('the Comitology decision') ⁽²⁾ and has thereby failed to act within the meaning of Article 232 EC.

The applicants submit that the Commission's obligation to adopt such a decision within the timeframe laid down in Directive 2001/18/EC is further confirmed by a number of factors, namely (a) the need to preserve institutional balance, (b) further consideration of the legal basis for the Commission's request and (c) general principles of EC law.

However, the applicants contend that, in the event that the Court found that the Commission's letter of 19 May 2008 constitutes a definition of the Commission's position, and that the applicants' action for failure to act is therefore inadmissible, the applicants request in the alternative the Court to annul the Commission decision of 14 May 2008 granting a mandate to EFSA for a consolidated opinion, and the suspension of the procedure pending a fifth scientific assessment, leading to the adoption of the contested decision.

The applicants claim that in adopting the contested decision, and thus, further delaying the adoption of the Amflora Decision, the Commission infringed Article 18(1) of Directive 2001/18 and Article 5(6) subparagraph 3 of the Comitology decision, which required the Amflora Decision to be adopted

within 120 days following the commencement of the Community procedure, as well as fundamental EC law principles of proportionality, sound administration, legitimate expectations, legal certainty and non-discrimination.

⁽¹⁾ Directive 2001/18/EC of the European Parliament and of the Council of 12 March 2001 on the deliberate release into the environment of genetically modified organisms and repealing Council Directive 90/220/EEC (OJ 2001 L 106, p. 1).

⁽²⁾ Council Decision 1999/468/EC of 28 June 1999 laying down the procedures for the exercise of implementing powers conferred on the Commission (OJ 1999 C 184, p. 23).

Action brought on 1 August 2008 — Elf Aquitaine v Commission**(Case T-299/08)**

(2008/C 272/56)

*Language of the case: French***Parties**

Applicant: Elf Aquitaine SA (Courbevoie, France) (represented by: E.Morgan de Rivery, S.Thibault-Liger, lawyers)

Defendant: Commission of the European Communities

Form of order sought

- annul, pursuant to Article 230 EC, the Decision of the Commission of the European Communities No C(2008) 2626 final of 11 June 2008 in so far as it concerns Elf Aquitaine;
- in the alternative:
 - annul or reduce, pursuant to Article 229 EC, the fine of EUR 22 700 000 imposed jointly and severally on Arkema France SA and Elf Aquitaine by Article 2(c) of the Decision of the Commission of the European Communities No C(2008) 2626 final of 11 June 2008;
 - annul or reduce, pursuant to Article 229 EC, the fine of EUR 15 890 000 imposed on Elf Aquitaine by Article 2(e) of the Decision of the European Communities No C(2008) 2626 final of 11 June 2008;
- in any event, order the Commission of the European Communities to pay all the costs.