Reports of Cases

ORDER OF THE EUROPEAN UNION CIVIL SERVICE TRIBUNAL (First Chamber)

24 May 2012 *

(Civil service — Recruitment — Open competition — Decision to extend the deadline for registration — No complaint — Manifest inadmissibility)

In Case F-91/11,

ACTION brought under Article 270 TFEU, applicable to the EAEC Treaty pursuant to Article 106a thereof,

Ciprian-Calin Alionescu, residing in Etterbeek (Belgium), represented by M. Stănculescu, lawyer,

applicant,

v

European Commission,

defendant,

THE CIVIL SERVICE TRIBUNAL (First Chamber)

composed of H. Kreppel (Rapporteur), President, E. Perillo and R. Barents, Judges,

Registrar: W. Hakenberg,

makes the following

Order

1 By application received at the Registry of the General Court of the European Union on 24 May 2011 and registered under reference T-282/11, Mr Alionescu seeks annulment of the decision by which the European Personnel Selection Office (EPSO) decided to extend by six hours the deadline for registration for open competitions EPSO/AD/206/11 and EPSO/AD/207/11 ('the decision at issue') and the adoption of measures consequent on that annulment.

* Language of the case: English.

Facts of the dispute

2 On 16 March 2011, EPSO published in the *Official Journal of the European Union* notice of open competitions EPSO/AD/206/11 and EPSO/AD/207/11 for the constitution of a reserve from which to recruit administrators at grades AD 5 and AD 7 respectively in the following fields: European public administration, law, economics, audit, finance and statistics (OJ 2011 C 82 A, p. 1; 'the notice of competition').

3 Point VII.1 of the notice of competition provided as follows:

'You must apply online by following the instructions on the EPSO website. Closing date ...: 14 April 2011 at 12.00 [hrs] (midday), Brussels [(Belgium)] time.'

4 The applicant applied for one of the two abovementioned competitions before the closing date stated in the notice of competition. The application does not specify which one.

5 In a message posted on its website on 14 April 2011, EPSO informed potential candidates for competitions EPSO/AD/206/11 and EPSO/AD/207/11 that it had been decided that the deadline for registration for those competitions would be extended by six hours.

6 The message was worded as follows:

'Due to heavy traffic, there have been some issues with access to the EPSO account system. Candidates might not have been able to access, edit or validate their application.

For this reason, EPSO has extended the registration period by [six] hours. The new deadline for validation is 14 [April] 2011 at [18.00 hrs] – [Brussels time].

…'

Procedure and form of order sought by the applicant

7 By order of 6 September 2011, the General Court of the European Union referred Case T-282/11 to the Tribunal. The action was registered at the Registry of the Tribunal under reference F-91/11.

8 The applicant claims that the Tribunal should:

— annul the decision at issue;

— in consequence, invalidate all applications validated after the deadline appearing in the notice of competition;

— in consequence, order EPSO to disregard the results of the pre-selection tests of candidates who validated their applications after the deadline appearing in the notice of competition and consider those results and candidatures null and void for the purposes of the competitions in question.

9 The applicant's action was not communicated to the European Commission.

Law

10 Under Article 76 of the Rules of Procedure of the Tribunal, where an action is, in whole or in part, manifestly inadmissible, the Tribunal may, without taking further steps in the proceedings, give a decision by way of reasoned order.

11 In the present case, the Tribunal considers that it has sufficient information from the documents in the file and has decided, pursuant to Article 76 of the Rules of Procedure, to give a decision without taking further steps in the proceedings, on the basis of the application alone.

12 The applicant challenges, in essence, the legality of the decision at issue.

13 It is not necessary, for the purpose of dealing with the question of the admissibility of the present action, to determine whether the decision at issue constitutes an act adversely affecting the applicant.

14 Should the decision at issue not constitute an act adversely affecting the applicant, the action would be inadmissible under Article 91(1) of the Staff Regulations of Officials of the European Union, according to which the Tribunal is to have jurisdiction in any dispute between the European Union and any person to whom those Staff Regulations apply regarding the legality of an act adversely affecting such person.

15 Conversely, if the decision at issue constitutes an act adversely affecting the applicant, it must be borne in mind that, according to the case-law, except where the action is directed against a measure not of the appointing authority itself, such as a decision of a competition selection board (judgment of 20 June 1990 in Case T-133/89 *Burban* v *Parliament*, paragraph 17) or a staff report (judgment of 16 July 1992 in Case T-1/91 *Della Pietra* v *Commission*, paragraph 23), failure to lodge a prior complaint within the required time-limit renders the action inadmissible (order of 10 June 1987 in Case 317/85 *Pomar* v *Commission*, paragraphs 11 and 13, and judgment of 9 December 2008 in Case F-106/05 *T* v *Commission*, paragraph 84).

16 In the present case, although the decision at issue was adopted by EPSO in its capacity as the organising authority for the competitions concerned and not by the selection board in those competitions, it is apparent from the documents in the file that the applicant did not lodge a complaint against that decision.

17 Accordingly, the action must be dismissed as manifestly inadmissible.

Costs

18 It must be recalled that, under Article 87(1) of the Rules of Procedure, without prejudice to the other provisions of Chapter 8 of Title 2 of those rules, the unsuccessful party is to be ordered to pay the costs if they have been applied for in the successful party's pleadings. Under Article 89(3) of those rules, if costs are not applied for, the parties are to bear their own costs.

19 Since the present order has been made without the application having been served on the defendant, the applicant should be ordered to bear his own costs, in accordance with Article 89(3) of the Rules of Procedure.

On those grounds,

THE CIVIL SERVICE TRIBUNAL (First Chamber)

hereby orders:

1. The action is dismissed as manifestly inadmissible.

2. Mr Alionescu shall bear his own costs.

Luxembourg, 24 May 2012.

W. Hakenberg
Registrar

H. Kreppel
President

The text of the present decision and the texts of the decisions of the Courts of the European Union cited in it are available on the internet site www.curia.europa.eu