Reports of Cases

ORDER OF THE GENERAL COURT (Appeal Chamber)
15 September 2010

Case T-157/09 P

Luigi Marcuccio
v
European Commission

(Appeal — Civil service — Officials — Reasonable time for the submission of a claim for compensation — Lateness — Appeal in part manifestly inadmissible and in part manifestly unfounded)

Application: lodged against the order of the European Union Civil Service Tribunal (First Chamber) of 18 February 2009 in Case F-42/08 *Marcuccio* v *Commission* [2009] ECR-SC I-A-1-35 and II-A-1-147, seeking the annulment of that order.

Held: The appeal is dismissed. Mr Luigi Marcuccio is to bear his own costs and pay those incurred by the European Commission in the present proceedings.

Summary

1. Procedure — Application initiating proceedings — Formal requirements
(Statute of the Court of Justice, Arts 21, first para., and 53, first para.; Rules of Procedure of the General Court, Art. 138(1))

2. Officials — Actions — Request under Article 90(1) of the Staff Regulations — Time-limit for submission
(Art. 236 EC; Staff Regulations, Arts 90 and 91)

3. Officials — Actions — Time-limits — Claim for compensation addressed to an institution
(Art. 236 EC; Statute of the Court of Justice, Art. 46; Staff Regulations, Art. 90)

4. Officials — Actions — Time-limits — Claim for compensation addressed to an institution
(Statute of the Court of Justice, Art. 46; Staff Regulations, Art. 90)

5. Procedure — Time-limit for instituting proceedings — Service of application by registered post
(Rules of Procedure of the Civil Service Tribunal, Arts 39(1) and 100(3))

1. Under the first paragraph of Article 21 of the Statute of the Court of Justice, which applies to the procedure before the General Court pursuant to the first paragraph of Article 53 of that Statute, and Article 138(1) of the Rules of Procedure of the General Court, the application initiating proceedings must, inter alia, contain a summary of the pleas in law on which it is based. It must accordingly specify the nature of the grounds on which the action is based, so that a mere abstract statement of

the grounds will not satisfy the requirements of the Statute or the Rules of Procedure. Moreover, that summary — albeit concise — must be sufficiently clear and precise to enable the defendant to prepare its defence and the General Court to rule on the action, if necessary, without any further information.

In order to ensure legal certainty and the sound administration of justice, it is necessary — if an action or, more specifically, a plea in law, is to be admissible — that the basic legal and factual particulars relied on be indicated coherently and intelligibly in the application itself. In that regard, it is not the task of the General Court to search through all the matters relied on in support of a first plea in order to ascertain whether those matters could also be used in support of a second plea.

(see para. 27)

See:

order of 23 Moutfort 2010 in T-16/09 P *Marcuccio* v *Commission*, para. 15 and the case-law cited therein

2. A dispute between an official and an institution to which he belongs or belonged, the purpose of which is to seek compensation for damage, falls within the scope, where it originates from the employment relationship between the official and the institution, of Article 236 EC (the content of which is identical to that of Article 270 TFEU) and Articles 90 and 91 of the Staff Regulations.

The fact that Article 236 EC and Article 90 of the Staff Regulations do not fix any time-limit for bringing a claim for compensation for damage does not make it unlawful to require such a claim to be brought within a reasonable period. Those provisions must be applied, particularly in respect of a claim for compensation for damage, in accordance with the principles of legal certainty and the protection of legitimate expectations, which are general principles of Union law. In the absence of any statutory rule, those general principles prevent the institutions and natural or legal persons from being able to act without any time-limits, thereby threatening, inter alia, to undermine the stability of legal positions already acquired, and they require the observance of a reasonable period.

Consequently, a challenge, beyond a reasonable period, to an event giving rise to damage caused by a European institution in its relations with its staff affects the certainty of legal relations between that institution and its staff and imposes on the European Union budget costs arising from an operative event which occurred too long ago. The principle of legal certainty therefore requires that staff should submit claims for compensation within a reasonable period following damage allegedly caused to them by a European institution in the context of their relations with that institution.

(see paras 40-43)

See:

T-144/02 *Eagle and Others* v *Commission* [2004] ECR II-3381, para. 62; T-114/08 P *Marcuccio* v *Commission* [2009] ECR-SC I-B-1-53 and II-B-1-313, para. 12 and the case-law cited therein; T-16/09 P *Marcuccio* v *Commission*, para. 34 and the case-law cited therein

3. A dispute between an official and an institution to which he belongs or belonged, the purpose of which is to seek compensation for damage, falls within the scope, where it originates from the employment relationship between the official and the institution, of Article 236 EC and not of Article 46 of the Statute of the Court of Justice. The requirement of five years laid down in Article 46 is therefore not the criterion for assessing whether the time-limit for bringing the proceedings in question is reasonable, but constitutes at the most a relevant element of comparison in that assessment, given that that limitation period is also designed to guarantee legal certainty in actions for

damages brought against the European Union. Consequently, the fact that a claim was brought within less than five years of the persons concerned being apprised of the situation of which they complain is not sufficient to consider that that claim was brought within a reasonable period.

(see para. 45)

See:

T-16/09 P *Marcuccio* v *Commission*, para. 37 and the case-law cited therein

4. The determination of the time-limit for bringing an action for damages is a point of law. In the absence of any time-limit in the rules applicable for bringing a claim for damages arising from the employment relationship between an official and the institution to which he belongs, that claim must be brought within a reasonable period, which is determined in the light of the circumstances of the case. In that respect, while the Civil Service Tribunal has absolute discretion to find and assess the relevant facts, provided that there is no clear distortion of their sense, its subsequent legal characterisation of those facts in the light of the principle of observance of a reasonable period is subject to review by the General Court.

(see para. 47)

See:

T-16/09 P *Marcuccio* v *Commission*, para. 39 and the case-law cited therein

5. Where the Registrar of the Civil Service Tribunal serves notice of proceedings on the defendant by registered post, the date of service which sets the time-limits running is the date on which the defendant acknowledges receipt of the registered letter addressed to him.

(see paras 69-70)

See:

T-16/09 P *Marcuccio* v *Commission*, para. 64 and the case-law cited therein