Reports of Cases

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

26 March 2015*

[Text rectified by order of 3 December 2015]

(Civil service — Officials — Action for annulment — Article 12a of the Staff Regulations — Internal Rules for the Advisory Committee on Harassment and its Prevention in the Workplace — Article 24 of the Staff Regulations — Request for assistance — Manifest errors of assessment — None — Role and powers of the Advisory Committee on Harassment and its Prevention in the Workplace — Option for an official to approach the Committee — Action for damages)

In Case F-124/13,

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

CW, an official of the European Parliament, residing in Brussels (Belgium), represented by C. Bernard-Glanz, lawyer,

applicant,

v

European Parliament, represented by E. Taneva and M. Dean, acting as Agents,

defendant,

THE CIVIL SERVICE TRIBUNAL

(First Chamber)

composed of R. Barents, President, E. Perillo and J. Svenningsen (Rapporteur), Judges,

Registrar: X. Lopez Bancalari, Administrator,

having regard to the written procedure and further to the hearing on 11 December 2014,

gives the following

* Language of the case: English.

Judgment

1 By application received at the Registry of the Civil Service Tribunal on 19 December 2013, CW seeks the annulment of the European Parliament's decision of 8 April 2013 refusing to grant her request for assistance, submitted because of the psychological harassment to which she feels she has been subjected by her superiors, and requests that the Parliament be ordered to pay damages.

Legal context

2 The first paragraph of Article 31 of the Charter of Fundamental Rights of the European Union ('the Charter'), entitled 'Fair and just working conditions', provides:

'Every worker has the right to working conditions which respect his or her health, safety and dignity.'

3 Article 12a(3) of the Staff Regulations of Officials of the European Union ('the Staff Regulations'), in the version applicable to the present dispute, provides:

'"Psychological harassment" means any improper conduct that takes place over a period, is repetitive or systematic and involves physical behaviour, spoken or written language, gestures or other acts that are intentional and that may undermine the personality, dignity or physical or psychological integrity of any person.'

4 The first paragraph of Article 24 of the Staff Regulations provides:

'The European Union shall assist any official, in particular in proceedings against any person perpetrating threats, insulting or defamatory acts or utterances, or any attack to person or property to which he or a member of his family is subjected by reason of his position or duties.'

5 On 21 February 2006, the Parliament adopted new 'Internal Rules for the Advisory Committee on Harassment and its Prevention [in] the Workplace' ('the Internal Rules') with a view to implementing Article 12a of the Staff Regulations. Article 9 of the Internal Rules states that any staff member of that institution who is experiencing a problem which might constitute harassment or who thinks that a problem of that kind exists in his working environment may report the matter to the Advisory Committee on Harassment and its Prevention in the Workplace ('the Committee', or 'the Advisory Committee on Harassment'). Pursuant to Article 11 of those rules, a staff member who feels that he is being subjected to harassment must be seen by the Committee within ten working days of his request. Under Articles 12 to 14 of the Internal Rules, the Committee: (i) may, if it deems it advisable, make recommendations to management staff with a view to resolving the problem; (ii) must, in order to ensure that the file is followed up on, remain in contact with the staff member concerned and, if necessary, with his superiors; and (iii) if the problem persists, is to forward a confidential report to the Secretary-General of the Parliament containing proposals on the action(s) to be taken and, where appropriate, may ask him for instructions in order to conduct a detailed investigation.

Facts giving rise to the dispute

6 On 6 October 2003, the applicant was recruited as a member of the Parliament's auxiliary staff. She was initially assigned to the Slovak Interpretation Unit in the Directorate for Interpretation of the DG (Directorate-General) for Infrastructure and Interpretation, now the DG for Interpretation and Conferences. From 8 October 2004, she was employed as a temporary staff member in that Unit.

7 On 1 October 2008, the applicant was appointed as a probationary official of the Parliament and was assigned to the Czech Interpretation Unit ('the Unit'). She was established in her post on 1 July 2009.

8 From 2008 to 2010, the applicant and Ms H. were Unit colleagues. When the post of Head of Unit became available, both women submitted applications. At the end of the selection procedure, the applicant's application was rejected in favour of the application submitted by Ms H. ('the Head of Unit'), who was appointed Head of Unit on 17 May 2010.

9 Relations between the applicant and the Head of Unit deteriorated, particularly following a Unit meeting which was held on 23 May 2011 ('the meeting of 23 May 2011').

10 In that connection, in May 2011, after the Unit had prepared a list of questions for a meeting with the management set for 13 May 2011, a conflict arose between the applicant and several other members of the Unit on the one hand, and the Head of Unit and her supporters within the Unit on the other. In essence, the questions which had been prepared under the leadership of CQ, a colleague of the applicant, were submitted as they stood to the Director of the Directorate for Interpretation ('the Director') via the Head of Unit. The Director reacted strongly by e-mail to the wording of the proposed questions, challenging the notion that they could be said to represent the views of all members of the Unit. In that connection, on 12 May 2011 the Head of Unit sent an e-mail to all members of the Unit, which was worded as follows: '[Questions were] prepared for tomorrow's meeting with the management on behalf of the [Unit's interpreters' booth]. Did you know about them and do they fully reflect your opinion too? ...'

11 At the meeting of 23 May 2011, the Head of Unit was asked, inter alia, to explain why she had sent an e-mail to the members of the Unit on 12 May 2011. An argument lasting several months followed regarding the drafting of the final version of the minutes of that meeting. In that connection, the applicant and several of her colleagues — including CQ — disputed the content of those minutes on several occasions and asked the Head of Unit (in an e-mail sent to the whole Unit) to show them the rule on the basis of which she was allowed to make the final decision on the content of the minutes of the meeting in question. On 13 September 2011, having consulted the Director, and acknowledging that there was no written rule on the subject, the Head of Unit sent the members of the Unit an e-mail setting out for them the principles governing the adoption of minutes, including the fact that she was entitled, in her capacity as Head of Unit, to refuse to correct the minutes of a meeting where the correction requested did not reflect what was said at the meeting. On 6 October 2011, the applicant sent another e-mail to the whole Unit — including the Head of Unit — regarding the minutes of the meeting of 23 May 2011.

12 On 17 February 2012, the Director sent the applicant an e-mail asking her to carry out the instructions which he had given her in a note, delivered in person, on 1 February 2012, that is to say, asking her to apologise in an e-mail addressed to the members of the Unit — including the Head of Unit — for having implied that the Head of Unit had disregarded the rules concerning the selection criteria for persons applying for language courses organised during the summer.

13 On 19 February 2012, the applicant explained in an e-mail to the Chairman of the Advisory Committee on Harassment ('the Chairman of the Committee') that, '[s]ince February 1, 2012, [she had] been exposed to an enormous pressure exerted by [her] two superiors, [that she was] in a very difficult situation and [that she wished] to seek professional help in the matter'. Although the applicant had asked the Chairman of the Committee in that e-mail to let her know if they could meet as soon as possible, the Chairman of the Committee did not reply to that e-mail in writing. Therefore, by e-mail of 21 February 2012, the applicant contacted Ms W. (the secretary of the Committee), who, by e-mail sent the following day, replied that the Chairman of the Committee was in the process of moving to a new office, which might explain why he was not receiving his e-mails, and suggested that the applicant get in touch with Dr E-H. or Ms R., both of whom were members of the Advisory Committee on Harassment and were copied into the secretary's e-mail. Without having contacted either of those members directly, the applicant replied, by e-mail of 22 February 2012 with the Chairman of the Committee also in copy, informing Ms W. that she wished to ask the Chairman of the Committee for

advice as soon as possible. Ms W. then assured the applicant that her message would be forwarded to the Chairman of the Committee as soon as possible. According to the applicant, no follow-up action was taken by the Chairman of the Committee with regard to those e-mails.

14 On 29 March 2012, the applicant received a note from the Director informing her that, given her recent state of health, she was relieved of tasks secondary to her duties as an interpreter. From that time onwards, the applicant performed only her main duties, namely, interpretation in Brussels (Belgium) and in the two other workplaces of the Parliament. She also continued to participate in a Polish language course. In addition, following a meeting held at the beginning of June 2013, the Director confirmed, by a note of 11 June 2013 addressed to the applicant (a copy of which was sent to the Head of Unit), that the applicant was henceforth allowed to undergo vocational training in the interest of the service.

15 On 4 July 2012, a new Chairman of the Advisory Committee on Harassment ('the new Chairman of the Committee') was appointed and, according to the Parliament, the applicant was subsequently invited to contact the Committee on several occasions.

16 On 5 February 2013, pursuant to Article 90(1) of the Staff Regulations, the applicant submitted a request to the Parliament for assistance under Article 24 of those regulations ('the request for assistance'). In support of that request, the applicant provided a detailed description of 14 incidents or events which, in her view, whether taken individually or cumulatively, constituted psychological harassment by her Head of Unit and her Director. The applicant also stressed that the list of incidents was not exhaustive and that '[t]he institution, to which a formal request for assistance and a complaint [had] been presented [by CQ], [was] fully aware of the situation and [had] given a mandate to the Director-General [of the DG for Interpretation and Conferences] to investigate the matter'. She also asserted that her alleged harassment took various forms: 'deceptive or misleading communication, refusal to communicate, degrading comments, attempts at public humiliation, defamation, pressure, bullying and threats, or unjustified depriving of professional tasks'. All of those events had led to 'burnout', as a result of which she was put on long-term sick leave.

17 By the request for assistance, in which she regretted the fact that, despite her demands and reminders, neither the Chairman nor any other member of the Committee had contacted her following her e-mail of 19 February 2012, the applicant asked the Parliament to reassign her Head of Unit and/or her Director to another post, or to adopt a decision that would have the equivalent effect of protecting her from their abuses, and to open a full-scale inquiry into the management methods and conduct of her superiors.

18 In a letter of 5 March 2013, the Director-General of the DG for Personnel ('the Director-General for Personnel'), in his capacity as appointing authority, while regretting that the first contact which the applicant had tried — in vain — to establish with the Advisory Committee on Harassment in February 2012 '[had] not [led] to a full-scale examination of [her] complaints', recommended that the applicant approach the Advisory Committee on Harassment, which, having broad powers to examine all cases of potential harassment thoroughly and to make recommendations, was best placed to determine whether the facts described by the applicant could be considered psychological harassment. In order to facilitate that process, the contact details of the new Chairman were provided in that letter. However, in a letter of reply of 11 March 2013, the applicant's legal advisor first of all observed that she had already 'exhausted this option', as she had 'tried to complain to the [Advisory C]ommittee [on Harassment]', and then explained that the applicant had lodged a request for assistance pursuant to Article 24 of the Staff Regulations precisely because the Committee, to whom she had turned in the first place, had failed to perform the duty assigned to it under the Internal Rules. The applicant's legal advisor stated that, against that background, he '[found the] recommendation [of the Director-General for Personnel] shameful and unacceptable'.

19 By a decision of 8 April 2013, notified to the applicant on 10 April 2013, the appointing authority (the Director-General for Personnel), after examining the request for assistance and taking account of the information relating to the situation in the Unit of which it had become aware during its examination of a complaint of harassment submitted by a colleague from that Unit (CQ) (see judgment in *CQ* v *Parliament*, F-12/13, EU:F:2014:214), refused to grant the applicant's request for assistance ('the decision refusing assistance').

20 In that connection, the appointing authority expressed its regret at the applicant's refusal to approach the Advisory Committee on Harassment, as that refusal meant that the appointing authority had been deprived of what would for it have been a 'valuable opinion on [the applicant's] allegations[, given that the Advisory] Committee [on Harassment was] best placed to [conduct] the full-scale inquiry that [the applicant was requesting]'.

21 That being so, notwithstanding the fact that the Advisory Committee on Harassment had not been approached, the appointing authority decided, after examining the copious documents submitted by the applicant and after acquiring information on the situation in the Unit from another investigation carried out in that Unit by the Committee, to refuse to grant the applicant's request for assistance. Examining each of the events at issue set out by the applicant in her request, the appointing authority considered that they were minor, had already been mentioned in the context of the applicant contesting her staff report for 2011 ('the 2011 staff report'), or constituted legitimate decisions or conduct on the part of the appointing authority or the management in response to the applicant's own conduct.

22 On 9 July 2013, the applicant submitted a complaint pursuant to Article 90(2) of the Staff Regulations against the decision refusing assistance. By decision of 23 October 2013, the appointing authority (the Secretary-General of the Parliament) rejected the complaint for being, at that stage, premature ('the decision rejecting the complaint'). In that response, the appointing authority emphasised in particular that it was not required to adopt measures under Article 24 of the Staff Regulations unless the facts giving rise to the request had been established and that, within the Parliament, it was for the Advisory Committee on Harassment to carry out inquiries in cases of alleged harassment. However, the applicant had refused to submit her case to the Committee for review.

23 Reminding her that, according to case-law, the existence of difficult, even conflictual relations between an official and his superior does not, in itself, constitute proof of psychological harassment, the appointing authority informed the applicant that it had asked the new Chairman of the Committee, in office since 4 July 2012, to contact her to explain the procedure before the Advisory Committee on Harassment so as to enable her to decide, in the light of the information provided, whether or not to follow that procedure.

24 On 15 January 2014, that is to say, after the present action was brought, the new Chairman of the Committee contacted the applicant. They met on 20 January 2014. In an e-mail sent that same day, the new Chairman of the Committee confirmed that it would be possible for the applicant to approach the Advisory Committee on Harassment informally 'whenever [she might] find it appropriate'.

Procedure and forms of order sought

25 The applicant claims that the Tribunal should:

— declare the action admissible;

— annul the decision refusing assistance;

— annul, in so far as necessary, the decision rejecting the complaint;

— award her a sum of EUR 50 000 by way of compensation for the non-material damage she has suffered and reimburse her, by way of compensation for the material damage suffered, a quarter of the amount of the medical fees incurred as a result of the deterioration of her state of health, together with the statutory interest accrued on the total of those two amounts until payment of that sum;

— order the Parliament to pay the costs.

26 The Parliament contends that the Tribunal should dismiss the action as unfounded and order the applicant to pay the costs.

27 In the preparatory report for the hearing which was notified to the parties on 21 November 2014, the Tribunal, by way of measures of organisation of procedure, put questions to the parties. The parties duly responded to those questions and were each given the opportunity to present their observations regarding their responses at the hearing held on 11 December 2014.

28 In that connection, the applicant confirmed, inter alia, that she had remote access to her Parliament e-mail inbox and that she had taken part in four summer university courses, including one English language course in 2004. For its part, the Parliament explained, inter alia, regarding the lack of a response from the Chairman of the Committee to the applicant's e-mail of 19 February 2012, that he had taken up new duties on 25 January 2012 in another Directorate-General, but emphasised that he had none the less attempted to contact the applicant following her e-mail of 19 February 2012. Regarding the applicant's assignment to the Czech Unit, whereas she was previously part of the Slovak Interpretation Unit, the Parliament stated that it had not kept any evidence of the complaint of harassment filed at the time by the applicant and that the change of post took place upon her being appointed a probationary official. Concerning the Advisory Committee on Harassment, the Parliament stated that that committee was in no way able to make a decision on behalf of the appointing authority regarding a request for assistance made on the basis of Article 24 of the Staff Regulations and, consequently, could not make a decision refusing to grant such a request.

29 In addition, by letter of 5 December 2014, the applicant submitted comments, accompanied by three new annexes, on the preparatory report for the hearing, and offered, pursuant to Article 57 of the Rules of Procedure, further evidence in connection with, inter alia, two statements made by two of her colleagues on their honour which were appended to the defence. The Tribunal decided to add those documents to the case-file and not to close the oral procedure at the end of the hearing, so as to give the Parliament the opportunity to submit any observations it might have on those new documents, which it did on 17 December 2014.

30 In that same letter, the applicant also asked the Tribunal, in the event of its finding that the e-mails written in Czech, in respect of which she contested, in her reply, the accuracy of the translation into English carried out by the Parliament, were relevant for the purposes of its giving a ruling in the present case, to order that those e-mails be translated by an independent translator.

31 On 18 December 2014, the Tribunal closed the oral procedure.

Law

1. *Subject-matter of the action*

32 A claim for annulment formally directed against the rejection of a complaint has the effect of bringing before the Tribunal the act against which the complaint was submitted, where that claim, as such, lacks any independent content (see, to that effect, judgments in *Vainker* v *Parliament*, 293/87, EU:C:1989:8, paragraph 8, and *CQ* v *Parliament*, EU:F:2014:214, paragraph 69).

33 However, in the present case, the statement of reasons given in the decision rejecting the complaint differs from the statement of reasons given in the decision refusing assistance, with the result that the claim for annulment of the decision rejecting the complaint does not lack independent content, and it is therefore necessary for the Tribunal to give a ruling on the substance of that claim. In addition, the decision rejecting the complaint clarifies certain aspects of the statement of reasons for the decision refusing assistance. Consequently, in view of the evolving nature of the pre-litigation procedure, the statement of reasons for the decision on the complaint must also be taken into account in the review of legality of the decision refusing assistance, since that statement of reasons is deemed to cover the latter act also (see judgment in *Mocová* v *Commission*, F-41/11, EU:F:2012:82, paragraph 21).

2. *The claims for annulment of the decision refusing assistance and the decision rejecting the complaint*

34 In support of her action, the applicant formally raises two pleas in law as grounds for the annulment of the decision refusing assistance and the decision rejecting the complaint. The first plea in law is in three parts, alleging: (i) manifest errors of assessment and related infringement of Article 12a(3) of the Staff Regulations; (ii) misuse of power, and (iii) breach of the duty of care, breach of the duty to provide assistance enshrined in Article 24 of the Staff Regulations, and infringement of Article 31(1) of the Charter. The second plea in law is in two parts, alleging: (i) breach of the duty to provide assistance enshrined in Article 24 of the Staff Regulations, and (ii) infringement of the principle of sound administration, breach of the duty of care, and infringement of Article 31(1) of the Charter.

35 That said, in paragraphs 112 and 113 of her application the applicant expressly stated that the first plea in law raised concerned the legality, as regards the substance, of the grounds given for refusing to grant the request for assistance as set out in the decision refusing assistance, while the second plea in law concerned the ground relied on in the decision rejecting the complaint, namely, the allegedly premature nature of the complaint. It is therefore appropriate, as was acknowledged by the applicant at the hearing, to understand the pleas in law as follows: the first plea in law alleges manifest errors of assessment, misuse of power and related infringement of Article 12a(3) of the Staff Regulations and Article 31(1) of the Charter, while the second plea in law alleges a breach of the duty of care and of the duty to provide assistance enshrined in Article 24 of the Staff Regulations.

Preliminary considerations as regards the extent of the duty to provide assistance in cases of allegations of harassment

36 As a preliminary point, it should be borne in mind that, according to settled case-law, Article 24 of the Staff Regulations was devised to protect the officials of the European Union from harassment or any kind of degrading treatment not only by third parties but also by their superiors or colleagues (judgments in *V.* v *Commission*, 18/78, EU:C:1979:154, paragraph 15; *Schmit* v *Commission*, T-144/03, EU:T:2005:158, paragraph 96; and *Lo Giudice* v *Commission*, T-154/05, EU:T:2007:322, paragraph 135).

37 By virtue of the duty to provide assistance, the administration, when faced with an incident which is incompatible with the good order and tranquillity of the service, must intervene with all the necessary vigour and respond with the rapidity and solicitude required by the circumstances of the case so as to

ascertain the facts and, having done so, to take the appropriate action in full knowledge of the matter. To that end, it is sufficient that the official who is seeking the protection of his institution provide prima facie evidence that the attacks of which he claims to have been the victim actually took place. When such evidence is provided, the institution concerned is then under an obligation to take the necessary measures, in particular to carry out an inquiry, with the cooperation of the complainant, to determine the facts which gave rise to the complaint (judgments in *Koutchoumoff* v *Commission*, 224/87, EU:C:1989:38, paragraphs 15 and 16; *Tallarico* v *Parliament*, T-5/92, EU:T:1993:37, paragraph 31; *Campogrande* v *Commission*, T-136/98, EU:T:2000:281, paragraph 42; *Schochaert* v *Council*, T-136/03, EU:T:2004:229, paragraph 49; and *Lo Giudice* v *Commission*, EU:T:2007:322, paragraph 136).

38 In cases of allegations of harassment, the duty to provide assistance includes, in particular, the duty of the administration to examine seriously, expeditiously and in total confidentiality, the complaint of harassment and to inform the complainant of the action to be taken in respect of that complaint (judgment in *Klug* v *EMEA*, F-35/07, EU:F:2008:150, paragraph 74).

39 With regard to the measures to be taken in a situation covered by Article 24 of the Staff Regulations, the administration enjoys a broad discretion — subject to review by the EU judicature — regarding the choice of measures and methods for implementing that provision. Review by the EU judicature is thus limited to assessing whether the institution concerned remained within reasonable bounds and whether it used its discretion in a manifestly incorrect way (see judgments in *Haas and Others* v *Commission*, T-3/96, EU:T:1998:202, paragraph 54; *Schmit* v *Commission*, EU:T:2005:158, paragraph 98; and *Lo Giudice* v *Commission*, EU:T:2007:322, paragraph 137).

40 In that regard, it must be stressed that the institution cannot take disciplinary action against officials mentioned in a complaint of harassment (whether or not they are the superiors of the purported victim) or decide to reassign those officials unless the preliminary measures ordered clearly establish that the officials concerned have engaged in conduct detrimental to the proper functioning of the service or to the dignity and reputation of another official (judgments in *Katsoufros* v *Court of Justice*, 55/88, EU:C:1989:409, paragraph 16; *Dimitriadis* v *Court of Auditors*, T-294/94, EU:T:1996:24, paragraph 39; and *Schmit* v *Commission*, EU:T:2005:158, paragraph 108).

41 The concept of ‘psychological harassment’ is defined as ‘improper conduct’ in the form of physical behaviour, spoken or written language, gestures or other acts which take place ‘over a period’ and are ‘repetitive or systematic’, which suggests that psychological harassment must be a process that occurs over time and presumes the existence of repetitive or continual conduct which is ‘intentional’ as opposed to ‘accidental’. In addition, in order to fall under that definition, such physical behaviour, spoken or written language, gestures or other acts must have the effect of undermining the personality, dignity or physical or psychological integrity of a person (see judgment in *CQ* v *Parliament*, EU:F:2014:214, paragraphs 76 and 77 and the case-law cited).

42 Accordingly, it is not necessary to establish that the physical behaviour, spoken or written language, gestures or other acts in question were committed with the intention of undermining the personality, dignity or physical or psychological integrity of a person. In other words, there can be psychological harassment without a demonstration that there has been any intention on the part of the harasser, by his conduct, to discredit the victim or deliberately impair the latter’s working conditions. It is sufficient that such improper conduct, provided that it was committed intentionally, led objectively to such consequences (see judgments in *Cantisani* v *Commission*, F-71/10, EU:F:2012:71, paragraph 89, and *CQ* v *Parliament*, EU:F:2014:214, paragraph 77 and the case-law cited).

43 Lastly, as the conduct in question must, under Article 12a(3) of the Staff Regulations, be improper, it follows that the classification of 'harassment' is subject to the condition of its being objectively sufficiently real, in the sense that an impartial and reasonable observer, of normal sensitivity and in the same situation, would consider the conduct in question to be excessive and open to criticism (judgment in *Skareby* v *Commission*, F-42/10, EU:F:2012:64, paragraph 65).

44 It is in the light of those considerations that the Tribunal must examine the pleas in law raised by the applicant.

First plea in law: manifest errors of assessment and related infringement of Article 12a(3) of the Staff Regulations and Article 31(1) of the Charter

Arguments of the parties

45 By her first plea, the applicant argues that, in refusing to acknowledge that the events to which she refers, particularly when those events are examined in a wider context, constitute psychological harassment on the part of the Head of Unit and the Director, the appointing authority made several manifest errors in its assessment of those events and, as a result, wrongly concluded that there was no psychological harassment within the meaning of Article 12a of the Staff Regulations, thereby infringing both that provision and Article 31(1) of the Charter.

46 In support of that plea, the applicant refers to a series of 'specific incidents' which — whether taken separately or cumulatively — she has identified as constituting psychological harassment.

47 Those various 'specific incidents', which must be examined as the basis of the corresponding complaints made in the first plea in law, must — according to the applicant — be considered and examined in the general context in which the alleged harassment took place. The applicant describes that context on the basis of the following elements: (i) the events relating to the preparation and submission of 'questions to the management' and the adoption of the minutes of the meeting of 23 May 2011; (ii) the events relating to the application of the criteria laid down for the selection of candidates for a language course held in Ireland during the summer and the guidance the Director had given her concerning making an apology; (iii) the Director's note of 29 March 2012 relieving her of certain duties; and (iv) her general state of health, as described in several medical certificates drawn up between 15 February 2012 and 13 December 2013.

48 The Parliament contends that the first plea in law should be rejected as unfounded, arguing that the facts described in no way fall under the definition of harassment but simply show difficult and conflictual relations between the applicant and her superiors. Therefore, it maintains, those facts do not permit a finding of a manifest error of assessment on the part of the appointing authority.

Findings of the Tribunal

49 For the purposes of dealing with the first plea in law, the Tribunal proposes to begin by examining each of the events mentioned by the applicant in chronological order in the light of Article 12a of the Staff Regulations before proceeding to examine them cumulatively.

– The incident relating to a request to participate in an English refresher course held at the University of Bath (United Kingdom) during the summer of 2011

50 According to the applicant, an English refresher course had been mentioned in her staff report for 2010 as one of her training targets for 2011. With that in mind, on 7 April 2011 the Head of Unit gave her a letter of recommendation to support her application to the competent department of the

Parliament. However, on 20 April 2011, after having taken the necessary steps to participate in that training, including paying reservation fees for transport and/or accommodation, the applicant learned that the administrative rules of the Parliament precluded her from enrolling in a course of that kind. It is against that background that the applicant complains that her Head of Unit failed to inform her that access to individual refresher courses was never granted and that the Head of Unit encouraged her to apply for such a course 'in full knowledge of the fact that her application would be rejected'.

51 In that regard, it must be stated that, at the Parliament (as at the other institutions), it is for the department in charge of vocational training — which inspects the application files in order to select, taking budgetary constraints into account, persons meeting the conditions established by the institution with regard to the interest of the service — to examine applications to participate in language training courses which are funded by the institution and are held outside of the workplace partly or wholly during working hours.

52 Even though it may reasonably be expected that a Head of Unit would have some general knowledge of the rules applicable to the subject, that Head of Unit cannot be required to determine or to predict whether a request for training from one of his subordinates will satisfy the eligibility requirements. In particular, in the present case, there is nothing in the case-file to permit a finding that, as the applicant argues, the Head of Unit knew perfectly well, when she sent the applicant a letter of recommendation, that the applicable rules in that area at the Parliament did not allow funding of the type of course envisaged by the applicant.

53 In any event, the Tribunal finds that — as is clear from an e-mail of 17 May 2011 sent by the applicant to a member of the unit in charge of vocational training within the DG for Interpretation and Conferences — at the time of submitting her application, the applicant had been made aware of the fact that there could be difficulties with regard to her request being accepted.

54 Consequently, the events mentioned above can in no way be regarded as constituting psychological harassment.

– The incidents relating to a mission to Baku

55 According to the applicant, the appointing authority was wrong to consider, in the decision refusing assistance, that the events which she had described in connection with a mission to Baku (Azerbaijan) which took place on 20 and 21 June 2011 ('the mission to Baku') constituted only 'minor problems'. In the applicant's view, since the problems which arose in connection with that mission earned her a critical note from the Director on 14 September 2011 and negative remarks in her 2011 staff report, the appointing authority necessarily made a manifest error of assessment in describing those problems as minor ones.

56 The events to which the applicant refers in the context of that second complaint relate, first, to the fact that she had not, in her capacity as team leader, mentioned in her Team Leader Report a problem that had arisen on the spot concerning the size of the interpreters' booths available to the team during the mission to Baku.

57 Secondly, when asked, on 7 June 2011, to hand over her passport to the competent department of the Parliament so that it could obtain a visa for her in time for that mission, the applicant, despite having realised that she had left her passport at her parents' house in the Czech Republic the previous weekend, that is, the weekend of 4 and 5 June 2011, had merely informed the Head of Unit, without providing any further details, that the Protocol department might not be able to obtain a visa for her in time. Replying by e-mail of 8 June 2011, the Head of Unit had criticised the applicant for not declaring, when submitting a request on 7 June 2011 for annual leave for 10 June 2011, that she would be unable to provide her passport as part of the formalities for obtaining a visa. By a further e-mail, also sent on

8 June 2011, the applicant had then replied that the issue she was facing had nothing to do with her leave application. It was in that context that she had asserted in that e-mail that, '… even though this is none of your business, just for the record I am informing you that I would not be able to present my passport [on Friday 10 June 2011] with or without the [request for] annual leave. …' On 10 June 2011, the applicant finally sent her passport to the Protocol department. Thus, she was able to take part in the mission to Baku as originally planned. In that regard, according to the applicant, she and the Head of Unit decided by mutual agreement, at a meeting which took place on 4 July 2011, to settle the 'passport episode' amicably.

58 By note of 14 September 2011, the Director criticised the applicant for having created and sustained confusion regarding her ability to participate in the mission to Baku, in particular by sending an e-mail on the subject to the Delegation to the EU-Armenia, EU-Azerbaijan and EU-Georgia Parliamentary Cooperation Committees. The Director also criticised the applicant for having failed to warn her superiors earlier that her passport might be unavailable, which would have allowed the missions department to replace her if necessary. She thus forced the Protocol department to take the necessary steps to obtain a visa for her in four days. That passport episode earned the applicant the following note in her 2011 staff report: '[n]eeds to adopt a less intransigent attitude towards [her] superiors (see Note on [14 September 2011])'.

59 In that regard, since the applicant has not submitted any additional factual evidence, the Tribunal repeats its findings from paragraph 84 of the judgment in *CW* v *Parliament* (F-48/13, EU:F:2014:186) ruling on her action against her 2011 staff report, namely that, irrespective of the fact that she had informed her Head of Unit orally of the problem of the smallness of the interpreters' booths in Baku, the applicant did not, in any event, record that problem in the Team Leader Report even though it was an infringement, on the ground, of Article 7(1) of the decision of the Secretary-General of the Parliament of 3 January 2006 establishing the Provisions Applicable to Permanent, Temporary and Auxiliary Interpreters of that institution. Accordingly, the fact that she was criticised for that conduct, including in the 2011 staff report, is an example of the appointing authority exercising its broad discretion in assessing the quality of the service provided by its officials, but is not indicative of any form of harassment whatsoever, especially since it must be borne in mind that marks and assessments, whether positive or negative, contained in a staff report cannot, as such, be regarded as evidence that the report was drawn up for the purpose of psychological harassment (see judgment in *Faita* v *EESC*, F-92/11, EU:F:2013:130, paragraph 90).

60 Similarly, it can be seen from the e-mails exchanged by the applicant and the Head of Unit that the former demonstrated neither flexibility nor foresight in her failure to inform her superiors that she might not be able to provide her passport in time for her to participate in the mission to Baku.

61 The reprimands given in that regard by the Director in the note of 14 September 2011 and by the appointing authority in the 2011 staff report cannot reasonably be interpreted by an impartial and reasonable observer, of normal sensitivity and in the same situation, as being excessive and open to criticism. Therefore, they cannot reasonably be interpreted as being a form of harassment.

– The incident relating to the coordination of volunteers for missions

62 The applicant criticises the appointing authority for not having taken into consideration, as proof of the defamation to which she claims to have been subjected by her Head of Unit, the fact that the latter had suddenly, without warning the applicant, announced at a Unit meeting on 15 June 2011 that she would no longer be involved in organising missions, in particular in coordinating volunteers and compiling statistics on participation within the Unit, even though the Head of Unit knew that the applicant enjoyed that task, which had been assigned to her by the previous Head of Unit. The applicant emphasises in that regard that, initially, the Head of Unit had given no reason for her decision and that she had later given different reasons, namely: (i) the fact that she wished, in her

capacity as Head of Unit, to find out the preferences of members of the Unit with regard to missions; (ii) the fact that new statistical software was available; and (iii) (announced at a Joint staff — AIC meeting) that she had made the decision for practical reasons.

63 In that regard, the Tribunal must point out that, in view of the broad discretion enjoyed by the institutions in the organisation of their services, neither administrative decisions, even if they are difficult to accept, nor disagreements with the administration over questions relating to the organisation of services, can by themselves prove the existence of psychological harassment, particularly where — as in the present case — the position adopted by the superior member of staff is entirely in keeping with his duties of coordination and management of the Unit (judgment in *CQ* v *Parliament*, EU:F:2014:214, paragraph 98 and the case-law cited).

64 Even though, in view of the tense atmosphere in the Unit, it would certainly have been more appropriate, in order not to foster resentment on the part of the applicant concerning their relational difficulties, for the Head of Unit to have told the applicant face-to-face about the decision to discontinue her involvement in organising missions and to manage that issue directly in her capacity as Head of Unit from that point, the Tribunal considers that such a decision may be announced at a Unit meeting without that announcement constituting, in itself, conduct falling to be described as psychological harassment. Moreover, a redistribution of tasks of that kind, particularly one decided on by a Head of Unit at the end of her first year in her new post, could be construed by an impartial and reasonable observer as an example of that Head of Unit lawfully exercising the powers connected with that post.

– The meeting of 23 May 2011 and the subsequent incidents connected with the adoption of the minutes of that meeting

65 Even if, as Parliament emphasises, the applicant does not set out the disagreements which she and CQ, among others, had with the Head of Unit regarding the issue of the drafting of the minutes of the meeting of 23 May 2011 except in the part of her application which relates to the '[brief account of the facts giving rise to the dispute]', the Tribunal finds that the applicant is in fact arguing that the events relating to that issue which were examined in the decision refusing assistance constitute proof of psychological harassment.

66 In that regard, the Tribunal remarks at the outset that, although it is possible that the Head of Unit may have accidentally adopted an inappropriate tone at the meeting of 23 May 2011, accidental words or gestures, even if they may seem inappropriate, are excluded from the scope of Article 12a(3) of the Staff Regulations (see judgment in *CQ* v *Parliament*, EU:F:2014:214, paragraph 95).

67 Regarding the general rules governing the amendment of draft minutes of meetings, the Head of Unit stated in an e-mail of 29 July 2011 — in response to an e-mail, sent by the applicant on 28 July 2011 to all members of the Unit, questioning whether the Head of Unit was competent to deal with such matters — that it was customary for the Head of Unit to make the decision to adopt the final version of such minutes and that, upon returning from her summer holidays, she would try to find out if there were any written provisions in that regard.

68 The Head of Unit then set out the principles governing the adoption of minutes of Unit meetings in an e-mail sent to the Unit on 13 September 2011. However, by e-mail of 6 October 2011, the applicant repeated her request for comments approved by several of the participants in the meeting of 23 May 2011 — herself included — to be appended to the minutes of that meeting. By e-mail of 7 October 2011, the Head of Unit told the applicant that she had already stated her reasons for refusing to include those comments and asked the applicant to respect her decision and to cease all correspondence on that issue.

69 In that regard, the applicant submits that her being summoned by the Director by e-mail of 19 October 2011 to a meeting in his office scheduled for 24 October 2011, even though she was involved at that time in providing interpretation at an evening session of the Parliament, constituted further evidence of harassment, as she had already been severely distressed by her previous meeting with the Director on the subject of the mission to Baku. For that reason, while confirming by e-mail of 19 October 2011 that she would be present at the meeting, the applicant asked the Director to explain to her the reasons for that meeting, emphasising the fact that their previous meeting had been a traumatic experience for her. The following day, the Director informed the applicant that he wished to talk with her concerning her relations with the Head of Unit and with her Unit colleagues.

70 At the meeting of 24 October 2011, held in the presence of the Head of Unit and recorded in a note added to the applicant's personal file, the Director asked the applicant to comply with decisions made by the Head of Unit, not to fuel e-mail discussions within the Unit but to favour bilateral communication with the Head of Unit, and to cease reverting to the issue of the drafting of the minutes of the meeting of 23 May 2011.

71 In that regard, the Tribunal must again point out that, in view of the broad discretion enjoyed by the institutions in the organisation of their services, neither administrative decisions, even if they are difficult to accept, nor disagreements with the administration over questions relating to the organisation of services, can by themselves prove the existence of psychological harassment (judgment in *CQ* v *Parliament*, EU:F:2014:214, paragraph 98 and the case-law cited). As it is, in the circumstances, the Tribunal finds that the position adopted by the Head of Unit on the issue of the final version of the minutes of the meeting of 23 May 2011 was entirely in keeping with her duties of coordination and management of the Unit.

72 As regards the meeting of 24 October 2011, it could easily be perceived by an impartial and reasonable observer as a final attempt by the management to stem the flow of e-mails from the applicant, sent for the most part at times when Unit staff were supposed to be either interpreting or preparing interpreting sessions, and to put an end to various disputes relating to the issue of drafting the minutes of the meeting of 23 May 2011.

73 As regards the applicant's assertion that the Director told her that a Head of Unit is always right and must be listened to, the Tribunal observes that the applicant does not provide any evidence to illustrate that such a statement was in fact made — let alone the tone or nature thereof — and that, in any event, an essential element of the functioning of any administration is that the management can make decisions on issues such as those relating to the adoption of minutes or the methods of communication to be favoured between the members of an administrative unit (see, to that effect, judgment in *CW* v *Parliament*, EU:F:2014:186, paragraph 123), particularly in cases of clear misconduct spilling over from personal conflicts.

74 In the light of the foregoing, the Tribunal finds that the events surrounding the adoption of the minutes of the meeting of 23 May 2011 do not correspond to the definition of psychological harassment, but are in fact a reflection of a situation of internal conflict within an administrative department to which the applicant has been a contributor and which her hierarchical superiors have attempted to rectify, showing consideration for both the requirements of the department and the applicant's sensibilities.

– The incident connected with the working party on vocational training

75 Following her appointment to represent the Czech booth in the Training Working Party as she had requested, on 30 August 2011 the applicant was asked by her Head of Unit to send her information on the working party's conclusions after each meeting. According to the applicant, in practice that meant the Head of Unit checking the summary of those conclusions before that summary could be communicated by the applicant to other colleagues in the Unit.

76 In that regard, the applicant submits that, since neither the colleague who previously represented the Czech booth in the working party (CQ) nor the colleague who succeeded her in that role were obliged to obtain the Head of Unit's permission before communicating the information gathered at working party meetings and the conclusions of that meeting to the rest of the Unit, the Head of Unit misused her hierarchical power. That incident, she alleges, thus constitutes another example of the psychological harassment to which the applicant was subjected.

77 In that regard, the Tribunal finds that, in general, the Head of Unit's decision to find out the content of the information gathered by the representative of the Czech booth at meetings of the Training Working Party before that information was disseminated to the whole unit fell within her powers as Head of Unit and, in the circumstances of the present case, was completely understandable in view of the risk that, as had happened in the past, the dissemination of incorrect information could impede the proper functioning of the Unit (see judgment in *CQ* v *Parliament*, EU:F:2014:214, paragraphs 102 to 104), a risk which would be increased in a situation involving a newly-appointed person new to the role, such as the applicant.

78 The fact that the applicant's successor in the Training Working Party did not undergo checks regarding the information but was authorised to relay that information directly to the Unit at the end of each meeting of the working party is irrelevant, given that, as the Parliament states, that working party now adopts minutes for its meetings, which is in itself a source of reliable and unambiguous information, regardless of any report which may be made by the Unit's representative in that working party.

79 It follows that, in demanding the opportunity to check beforehand the information that the applicant intended to distribute to the members of the Unit in connection with discussions within the Training Working Party, the Head of Unit remained within the bounds of her discretion. In any event, such a decision, although it may have displeased the applicant, in no way constitutes psychological harassment.

– The events connected with the training seminar of 24 November 2011

80 Having been called upon to take part in a training seminar as a team leader, the applicant asked her Head of Unit what exactly her role and responsibilities were in respect of that seminar. Replying by e-mail on 23 November 2011, the Head of Unit invited the applicant to consult the corresponding section of the intranet site known as EPIweb. Having done so, the applicant again asked the Head of Unit what her duties would be as team leader in respect of the seminar, as the instructions given on the EPIweb intranet site did not provide any information on the subject. It can be seen from the subsequent e-mail exchange between the applicant and the Head of Unit that, in essence, there were no particular instructions on the subject on the EPIweb intranet site and the Head of Unit was satisfied that the applicant had been made aware of the rules concerning the duties of team leaders, while the applicant criticised the Head of Unit for not having told her at the outset that there were no rules on the subject and for having encouraged her to consult the EPIweb intranet site to no purpose.

81 In that regard, the Tribunal does not detect anything in the content of the e-mails from the Head of Unit mentioned above and appended to the application to suggest that those e-mails could constitute conduct capable of corresponding to the Staff Regulations' definition of psychological harassment. Besides the fact that the tone adopted by the Head of Unit was appropriate, the Tribunal considers that, in any event, the Head of Unit was entitled to invite the applicant to consult the section of the EPIweb intranet site concerning team leaders, especially in view of the ignorance of the applicable rules which the applicant had previously displayed and which had been remarked upon in her 2011 staff report. By contrast, it is possible that an impartial and reasonable observer might perceive in the applicant's responses to the Head of Unit's e-mails a certain propensity of the applicant to seek conflict with her hierarchical superior.

– The events connected with the request to participate in the 2012 summer university course

82 On 16 September 2011, the Head of Unit informed the Unit staff of the management's criteria for selecting candidates for a course in English as a passive language ('C language'), to be held in Ireland during the summer of 2012. The e-mail shows that the course was for 'new colleagues or colleagues who [had] newly added [English as a passive language]' to their language combinations.

83 On 22 September 2011, the applicant informed her Head of Unit that she was interested in that English course. In her reply sent that same day the Head of Unit, referring to the criteria communicated previously, reminded the applicant that the course was intended for 'new colleagues or [for] colleagues who [had] [newly] added passive [English]' to their language combinations, whereas the applicant had English as an active language ('B language') and could no longer be regarded as a new colleague.

84 Following the dissemination by the Head of Unit of the minutes of a meeting held on 21 November 2011, the applicant learned that two of her colleagues who, like her, had English as an active language had been accepted for the summer university course. By e-mail of 14 December 2011, the applicant sought an explanation from the Head of Unit, in particular with regard to whether the rules on taking part in summer university courses had changed. By e-mail of 15 December 2011, the Head of Unit informed the applicant that all persons admitted to the summer university courses complied with the criteria set by the Director-General of the DG for Interpretation and Conferences ('the Director-General'), which remained unchanged, and that the list of participants for the summer of 2012 had been approved by the Director-General. In a reply by e-mail sent that same day, the applicant stated, inter alia, that her decision to switch to a summer university course in French as a passive language was due to the fact that the Head of Unit had refused to enrol her in a summer university course in English. In addition, she repeated her request for an explanation from the Head of Unit with regard to the selection of persons to take part in summer university courses. By e-mail of 16 December 2011, the Head of Unit emphasised in particular, regretting the fact that the applicant had misinterpreted her suggestions, that, regarding the applicant's request to take part in a summer university course in English, the applicant neither met the criterion of having been recently appointed nor that of having recently added the language in question. Indicating that she had nothing more to add, the Head of Unit invited the applicant to approach the Director if she was not satisfied with the situation. In her reply sent that same day, the applicant informed the Head of Unit that, '[u]nlike [the Head of Unit], [she was] not going to turn to [the Director] solely because [she disagreed] with what [the Head of Unit was doing and the way in which she was doing it]' and that, '[o]nce again, [she wished] to ask [the Head of Unit] to explain [her] assertion that [the other two] colleagues ... [met] the criteria set by the Director-General [when] their situation [was] identical to [her own]'. As the Head of Unit did not reply to that e-mail, the applicant once again, by an e-mail of 11 January 2012, sought an explanation of the criteria applied.

85 During a Unit meeting of 13 January 2012, at which the majority of the members of the Unit were present, including the applicant, the Head of Unit declared that a member of the Unit was questioning whether she had correctly applied the selection criteria for summer university courses. The Head of Unit had therefore been forced to explain her reasons for considering that the two colleagues in the Unit accepted for English, who had been appointed in 2009, met the criterion of having been recently appointed. The applicant intervened at that point, observing that it was debatable whether an appointment in 2009 could be considered 'recent'. However, she stated that she was prepared to accept the Head of Unit's point of view on that issue, none the less expressing her doubts as to the interpretation of other criteria.

86 By e-mail of 17 January 2012 sent to all members of the Unit, the Head of Unit expressed her wish to provide clarification of several matters following the Unit meeting of 13 January 2012. In that context, she emphasised in particular that, contrary to what had been implied by the applicant — namely, that she had disregarded the criteria for taking part in summer university courses — she had applied those criteria entirely correctly when accepting the applications of the two colleagues in the Unit who had arrived in 2009. The Head of Unit emphasised that, in any event, pursuant to those criteria, the applicant was not eligible to take part in a summer university course in English. The applicant replied to the Head of Unit's e-mail in an e-mail of 18 January 2012 which was also sent to all members of the Unit.

87 By e-mail sent to the applicant with the Director in copy on 19 January 2012, the Head of Unit disputed the applicant's interpretation of events and reminded her in particular of her obligation under the Staff Regulations to respect decisions taken by her superiors, particularly in view of her position as a senior official. By e-mail of 20 January 2012 sent to the Head of Unit with the Director in copy, the applicant acknowledged that she had 'made a mistake', since she had 'really thought that, concerning applications for [summer university courses] in Ireland, [she] was in the same situation as the other two colleagues with English as [an active language]'. The applicant indicated to the Head of Unit that she '[wished] to apologise for [that mistake]'.

88 By note of 1 February 2012 — mentioned in paragraph 12 above and delivered to the applicant in person — the Director informed the applicant that he was dissatisfied with her conduct. In particular, he emphasised that she had not complied with his instructions as formalised and reiterated in an e-mail of 24 October 2011, namely, inter alia, to refer to him in the event of any differences of opinion with her Head of Unit and to avoid sending e-mails to the whole Unit. Referring to Articles 12, 12a and 21 of the Staff Regulations, the Director stated in that note that the applicant's conduct was serious evidence of her lack of loyalty towards her superiors. In that regard, the Director formally instructed the applicant to send an e-mail to the Unit apologising to the Head of Unit for: (i) having sent the e-mail of 18 January 2012; (ii) having wrongly asserted that the Head of Unit had incorrectly applied the selection criteria for taking part in summer university courses; and (iii) having alleged that the Head of Unit had not replied to her e-mails. The Director also reminded the applicant that it went without saying that the applicant was to refrain from involving her colleagues in any further disputes with the Head of Unit and from resorting to sending e-mails to the whole Unit.

89 Replying by e-mail on 4 February 2012, the applicant set out four pages of observations on the note of 1 February 2012. In that e-mail, she criticised the Head of Unit for having failed to prevent that flow of e-mails by communicating in a way which was ambiguous and brusque and which had forced the applicant to ask for further explanations, even if it might have been perceived as a sign of stubbornness on her part. The applicant began her observations by '[repeating] once again how sorry [she was] about the whole situation[, which had] been blown out of proportion', emphasising that she '[had] not accused the [Head of Unit] of breaching or not applying correctly [the] criteria for the [summer university course in English as a C language]'. In a six-page note dated 10 February 2012, the Director responded to the applicant's observations, including those concerning the accuracy of the English translation of the e-mails in Czech which had been exchanged between the applicant and the Head of Unit. An e-mail exchange then took place between the applicant and the Director on the

subject, inter alia, of the applicant's request to be allowed to provide her own English translation of those e-mails, a request which the Director finally granted. However, by e-mail of 15 February 2012, the Director told the applicant that her explanations were unconvincing and lamented the fact that that copious e-mail correspondence had taken up a great deal of not only the applicant's and the Head of Unit's working time but also, from the point of his involvement, of his working time in his capacity as Director. Consequently, he repeated the instructions set out in his note of 1 February 2012.

90 Returning from a period of sick leave, the applicant replied to the Director by e-mail of 16 February 2012. She returned to the issue of the accuracy of the translations of the e-mails in Czech exchanged with the Head of Unit and took issue with the Director's instruction to apologise. By e-mail sent the following day, the Director repeated his instructions for the applicant to apologise in an e-mail sent to all members of the Unit, the Head of Unit, and himself, and stated that, in the event of a refusal to comply with those instructions, he would immediately begin a disciplinary procedure. On 20 February 2012, the applicant's GP prescribed a period of sick leave until 2 March 2012. On 29 February 2012, the Director sent the applicant an e-mail repeating his instructions in a more threatening manner, and highlighted the fact that, although she had been on sick leave on 20 and 22 February 2012, she had been seen on the premises of the Parliament on those dates, meaning that she was in a position to comply with his instructions concerning the sending of a three-line e-mail of apology. The Director stated that, if he did not receive the requested e-mail that same day, he would begin a disciplinary procedure.

91 The Tribunal notes at the outset that, in — inter alia — her e-mail of 20 January 2012, the applicant acknowledged that she had not understood that she was not in the same situation as the two colleagues who had been chosen to take part in the summer university course held in Ireland and, in essence, apologised in that regard. Next, it is clear from the case-file that the applicant groundlessly and publicly called in question the authority and the credibility of her immediate superior — the Head of Unit — at the Unit meeting of 13 January 2012 and, in her e-mail to the Head of Unit with all members of the Unit in copy of 18 January 2012, remonstrated further with the Head of Unit. In view of those circumstances, where the applicant clearly disregarded the Director's instruction to cease communicating through e-mails sent to multiple recipients and to consult him in the event of differences of opinion between herself and her Head of Unit, the Tribunal finds that, in principle, the Director's order for the applicant to apologise to the same public did not exceed the bounds of his discretion in the management of his departments. In particular, in view of that groundless challenging of the Head of Unit within the Unit and before her superior (the Director), the Director was entitled to demand, in a similar way, that the apologies which the applicant had already made to the Head of Unit also be sent to the members of the Unit (see, to that effect, judgment in *Nanopoulos* v *Commission*, F-30/08, EU:F:2010:43, paragraph 247).

92 Regarding the fact that the Director repeated his instruction concerning the sending of an e-mail of apology to the whole Unit during the period in which the applicant was on sick leave and that he threatened, in that context, to begin a disciplinary procedure against her if she did not immediately carry out that instruction, the Tribunal notes that the e-mail in question, dated 29 February 2012 at 08h03, was sent to the applicant's professional e-mail address, that the applicant was able to consult her e-mail from home, that she went to her place of work during that period of sick leave, and that the step taken by Director was clearly based on the idea that the applicant would access that e-mail from her work station or from home if she deemed it necessary to consult her e-mail inbox, so as to give her the opportunity, irrespective of the fact that she was on sick leave, to send a short e-mail of apology in connection with the incidents relating to the selection of candidates for summer university courses and to bring that incident to an end so far as the Unit was concerned. In any event, in spite of the lack of response from the applicant, the Director did not act on his threat to begin a disciplinary procedure which, as a result, appears to be more of the nature of yet another attempt to put an end to the applicant's copious explanatory e-mails which were affecting the smooth functioning of the Unit.

93 In addition, in view of the fact that the Director, in his e-mail of 17 February 2012, while providing a suggestion as to the content of the e-mail of apology, left the precise wording of that apology up to the applicant, the Tribunal finds that, in view of the applicant's stubbornness and her propensity to question her Head of Unit's decisions, an impartial and reasonable observer, of normal sensitivity and in the same situation, would not consider the step taken by the Director to be excessive or open to criticism and would perceive it, not as conduct falling under the definition of psychological harassment, but more as an attempt to refocus a staff member whose conduct at the time was such as to jeopardise the smooth functioning of the department. Furthermore, the applicant's challenging the validity of her two colleagues, newly-appointed to a small unit, taking part in summer university courses does not show a great deal of team spirit.

94 Lastly, even if the tone of some e-mails may appear rather harsh, it must be held, in any event, that the exasperated reactions of the applicant's superiors are forgivable in view of her conduct (see judgment in *Fonzi* v *Commission*, 27/64 and 30/64, EU:C:1965:73, p. 640).

– The events connected with the adoption of the minutes of the meeting of 13 January 2012

95 After the Unit meeting of 13 January 2012 — mentioned in paragraph 85 above — on 13 February 2012 a draft of the minutes of that meeting was sent to the members of the Unit. By e-mail of 20 February 2012, the applicant asked the Head of Unit whether there was a deadline for submitting observations. By e-mail sent that same day, the Head of Unit pointed out to the applicant that she had already had a week to make her comments, but gave her until 24 February 2012 to submit any observations she might have.

96 The applicant laments the fact that the Head of Unit did not simply set a deadline for submitting her observations on the draft of the minutes of the meeting in question, but instead took the opportunity to 'lecture' her even though, pursuant to the principles governing the adoption of minutes of Unit meetings which had been communicated by the Head of Unit, such minutes are to be approved at the following meeting where no objections have been raised.

97 In that regard, the Tribunal does not detect anything in the e-mail from the Head of Unit mentioned above that constitutes conduct capable of corresponding to the Staff Regulations' definition of psychological harassment. Although the Head of Unit may, at most, have used wording which was perceived as sarcastic by the applicant, the Tribunal considers that, in doing so, she did not cross the line into unreasonable criticism, especially when account is taken of the aggressiveness and propensity to argue which the applicant had displayed in connection with the adoption of other minutes, namely, the minutes of the meeting of 23 May 2011.

– The events connected with the applicant being relieved of tasks secondary to her duties as an interpreter

98 By note of 29 March 2012 — mentioned in paragraph 14 above — the Director informed the applicant that, in view of her recent state of health, it would be better for her to focus from that date on her interpreting duties in Brussels and Strasbourg (France), that is to say working in the booth, preparing meetings and continuing with language classes. By contrast, the Director decided that, until further notice, she should abstain from other tasks, such as, inter alia, those involving missions outside the Parliament's three places of work and participation in a training course for trainers ('Training the Trainers').

99 By e-mail of 13 April 2012, the applicant expressed her surprise and asked the Director to reconsider his position in the light, inter alia, of her GP's opinion that she had fully recovered and was thus able to carry out her professional duties as of 29 March 2012. By e-mail of 20 April 2012, the Director

replied that he had made his decision in the applicant's interests following consultation of the Parliament's medical department and in agreement with that department. He indicated in that regard that the situation would be reviewed at the end of a six-month period.

100 After the applicant asked the Parliament's medical department to provide an explanation on that subject, the latter informed her, in essence, that it did not communicate information or advice relating to officials' state of health to the management. By e-mail of 23 October 2012, the applicant once again asked the Director to review his decision regarding tasks secondary to her duties as an interpreter. It can be seen from the case-file that, in essence, following a meeting with the applicant on 27 November 2012, the Director made the applicant's resumption of her secondary duties conditional upon her apologising to the Head of Unit in an e-mail sent to the whole Unit, as requested in the note of 1 February 2012. By e-mail of 25 January 2013, the applicant informed the Director that she was unable to comply with his instruction for the same reasons that she had already given him and the Head of Unit on numerous occasions. Replying by e-mail on 31 January 2013, the Director explained to the applicant that in order to put an end to the situation which she described as humiliating and untenable it was sufficient for her to apologise. He also criticised the applicant for having asked the Staff Interpreters' Delegation (DELINT) to 'express disquiet about the criteria used by [the Head of Unit] to select ... applicants for summer universities' at a meeting of that delegation held in March 2012. Following a meeting held on 10 June 2013, the Director decided to reinstate the applicant in her secondary roles, but on the condition that she comply with the applicable rules, given that travelling in the context of missions authorised by the Parliament implied mutual trust and thus respect for the rules in force within that institution. That decision was formalised, at the applicant's request, in a note from the Director of 11 June 2013, which states that the applicant 'is allowed, as all other colleagues in the Directorate, to follow professional training activities that are considered in the interest of the service'.

101 The applicant complains that, on the fallacious ground of her state of health, she was relieved of her secondary tasks through retaliatory measures and intimidation. The withdrawal of her secondary tasks is thus (i) a misuse of authority and power and (ii) conduct constituting harassment.

102 As a preliminary point, the Tribunal points out that, while it is true that the administration has every interest in assigning its officials to posts which accord with their aptitudes and their personal preferences, it cannot be said that officials thereby acquire an entitlement to exercise or to retain specific duties (judgments in *Campoli* v *Commission*, T-100/00, EU:T:2001:75, paragraph 71, and *DH* v *Parliament*, F-4/14, EU:F:2014:241, paragraph 68). Accordingly, the competent authority within the institution can decide to relieve its officials of certain tasks.

103 Regarding the tasks which were withdrawn from the applicant, those tasks were secondary to her main duties, namely, interpretation. They were also limited since the tasks involved were essentially: (i) taking part in missions outside the Parliament's three places of work, which Czech interpreters do not often get the opportunity to do; (ii) participation in the Working Training Party; and (iii) taking part in a training course for trainers.

104 The Tribunal notes that, even if the applicant enjoyed those secondary — potentially distracting — tasks, the fact remains that she was not relieved of the main duties involved in the job of interpreting. Next, the decision to withdraw secondary tasks was made on only a temporary basis. As regards the fact that the Director made the applicant's resumption of those secondary activities conditional upon her engaging in conduct more in line with the interest of the service, which involved her making the apologies requested, the Tribunal considers that, in view of the relational difficulties created in part by the applicant, that decision did not exceed the bounds of the Director's discretion.

105 It follows that the Director's decision temporarily to relieve the applicant of some of her secondary professional tasks, which were essentially mission and training activities, cannot constitute, as such, evidence of psychological harassment (see judgment in *K* v *Parliament*, F-15/07, EU:F:2008:158,

paragraph 38) and can in no way be described as a misuse of power. The fact that the Director wished, in that regard, to lend weight to the legitimacy of his decision by communicating with the Parliament's medical department on that issue is irrelevant.

– The events connected with the updating of a glossary

106 As regards the fact that the Head of Unit considered that the applicant had been late in carrying out the modest task that had been entrusted to her on 31 August 2011, namely, the task of updating the glossary concerning the common consolidated corporate tax base, the Tribunal repeats that, contrary to the applicant's assertions, as it has already held in paragraphs 114 to 117 of the judgment in *CW* v *Parliament* (EU:F:2014:186), the Head of Unit's remarks on that subject were not vitiated by any manifest error of assessment. Furthermore, the Tribunal does not see in what way a hierarchical superior noting an official's poor performance is conduct constituting psychological harassment, particularly when the performance in question is obviously poor.

– The events connected with the applicant travelling to the Czech Republic during a period of sick leave

107 The applicant left Brussels to visit her family in Prague (Czech Republic) from 2 to 5 March 2012, even though she was on sick leave at the time. On 4 June 2012, the Director-General asked the applicant whether she had travelled from Brussels to Prague on Friday 2 March 2012 and made the return journey on Monday 5 March 2012. After the applicant confirmed that information, the Director-General asked her whether she had obtained prior authorisation for that journey. On 6 June 2012, the applicant made the following statement: 'The answer to your question is no, I had not obtained a prior permission in the sense of [Article] 60 of the Staff Regulations, because I did not believe I had to ask for it.' Subsequently, in an e-mail of 7 June 2012, the Director-General informed the applicant that she had not complied with the Staff Regulations' rules on staying in a place other than one's place of employment during sick leave, despite the fact that such rules are laid down to protect the official so far as insurance cover is concerned, and that if she had submitted a request for prior authorisation, the applicant might even have been permitted to stay with her relatives for a longer period.

108 In that regard, the applicant asserts that, since the administration knew — in detail — of the flights which she had taken to go to Prague and to return to Brussels, it is clear that she was being closely monitored at that time by her administration, which has contributed to her levels of stress, pressure and feelings of intimidation.

109 The Tribunal finds that, by her line of argument, the applicant is attempting, under cover of allegations of harassment, to downplay the significance of her patent disregard for the wording of Article 60 of the Staff Regulations.

110 As regards the fact that the administration was informed by one of the applicant's colleagues that she had booked seats on the flights of 2 and 5 March 2012, the applicant has in no way established that the colleague in question was instructed to track her movements during her sick leave. It should also be observed that it is possible that some of her colleagues use the same air routes to return to their country of origin, particularly at weekends.

– The events connected with the settlement of expenses incurred in connection with a mission

111 The applicant makes reference to the fact that, while the Head of Unit was in the process of moving to another office, she failed to inform the applicant that her application form for reimbursement of expenses which she had incurred in the context of a mission could be left in the Head of Unit's old office. In addition, when the applicant asked the Head of Unit what her new office number was, the

Head of Unit replied by e-mail of 2 May 2012 that that information was available on the Parliament's intranet site but that — to make it easier for the applicant — the number could be found in the electronic signature to that e-mail.

112 In that regard, it must be found that the Head of Unit's conduct during that episode is in no way comparable, either in form or substance, to psychological harassment. The fact that the applicant perceives it as such is clearly a case of subjective perception.

– The events connected with the passing of the Polish exam

113 Having had the opportunity to acquaint herself with the written statements made by four of her colleagues, including Mr G., which had been produced by the Parliament for the purposes of its defence in the context of the case giving rise to the judgment in *CW* v *Parliament* (EU:F:2014:186), on 15 November 2013 the applicant requested, inter alia, that Mr G. not form part of the jury responsible for assessing her skills in Polish, a language which she wished to add to her interpreting skillset. According to the applicant, Mr G. did not, given his particularly negative statement about her, have the necessary level of neutrality.

114 In that regard, it must be held that the fact that Mr G. made statements depicting the applicant's conduct in a negative light does not, in itself, mean that Mr G. is incapable of objectively assessing her language skills. Indeed, the result of following the applicant's line of reasoning would be that, solely on the basis of the statements and her subjective perceptions of her working environment, almost half the Unit, the Head of Unit and the Director would be barred from assessing the applicant's skills and conduct in performing her professional duties.

115 Furthermore, the Tribunal notes that the applicant successfully passed her Polish test, robbing her arguments of all plausibility and credibility in that regard.

116 In the light of the foregoing, the Tribunal finds that, taken in isolation, the events and series of events mentioned above in connection with the incidents invoked by the applicant cannot be regarded as psychological harassment within the meaning of Article 12a of the Staff Regulations.

– The overall review of the events at issue

117 Taken as a whole, the Tribunal considers that the events put forward by the applicant, which it has examined in isolation, ('the events at issue') certainly reveal a conflictual relationship in a difficult administrative context, but are not evidence of acts of an abusive or deliberate nature, the documented statements and behaviour showing at most a clumsy management of the conflictual situation by the applicant's superiors, and not a deliberate intention to act abusively toward her (see, along the same lines, judgment in *CQ* v *Parliament*, EU:F:2014:214, paragraph 128).

118 In particular, in view of her own conduct — stubborn, intransigent and, on occasion, bordering on insubordinate — the applicant cannot claim not to understand the reasons for the decisions adopted by her superiors. In that regard, the Tribunal emphasises that the concepts of psychological harassment and the duty to provide assistance described in Articles 12a and 24 of the Staff Regulations cannot be extended to allow the supposed victim systematically to challenge every hierarchical authority or to consider himself free from the obligations explicitly laid down in the Staff Regulations, such as those relating to arrangements for leave or the obligation to cooperate sincerely with his superiors.

119 In that regard, the Tribunal points out that criticism by a hierarchical superior of work or a task carried out by a subordinate is not in itself inappropriate behaviour since, if that were the case, the management of a department would be almost impossible (judgments in *Tzirani* v *Commission*,

F-46/11, EU:F:2013:115, paragraph 97, and *CQ* v *Parliament*, EU:F:2014:214, paragraph 87). Likewise, it has been held that negative comments addressed to a staff member do not necessarily undermine his personality, dignity or integrity where — as in the present case — they are formulated in measured terms and are not based on allegations that are unfair and lacking any connection with objective facts (see judgments in *Menghi* v *ENISA*, F-2/09, EU:F:2010:12, paragraph 110, and *CQ* v *Parliament*, EU:F:2014:214, paragraph 87).

120 Although it is undeniable that the events relating to the 'questions to the management' and the meeting of 23 May 2011 contributed to a deterioration in working relations within the Unit, first, the fact that an official has difficult, even conflictual, relationships with his colleagues or superiors does not, in itself, constitute proof of psychological harassment (see, to that effect, judgment in *CQ* v *Parliament*, EU:F:2014:214, paragraphs 86, 87 and 98 and the case-law cited), even where those difficulties give rise to a series of warnings from his superiors. Secondly, by her repeated sending of e-mails, the applicant was hardly seeking, or helping, to calm the working atmosphere within the Unit.

121 Moreover, concerning the dispute arising from the application of the selection criteria for English courses at the summer universities laid on for 2012, the Director did not make a manifest error of assessment in deciding to require the applicant to apologise, through an e-mail addressed to the same persons as those to whom she had got into the habit of sending her copious correspondence concerning the Head of Unit (in the present case, all members of the Unit), for having implied that the Head of Unit had not correctly applied the criteria for taking part in those courses (see also judgment in *CW* v *Parliament*, EU:F:2014:186, paragraphs 71, 72 and 74). Furthermore, the Tribunal notes that the applicant had already apologised, but had done so in only a single e-mail of 20 January 2012 addressed to the Head of Unit with the Director in copy. Given that, if one of her superiors had forwarded that e-mail to the members of the Unit, the applicant would in all likelihood have perceived that gesture as an additional form of harassment, it was all the more legitimate for those superiors, with a view to restoring the credibility of the Head of Unit which had been compromised by the applicant's attitude, to require her to send the apologies which she had intended to make to the Head of Unit to the same persons to whom the messages criticising the Head of Unit had been sent.

122 On that subject, the Tribunal finds that, just as the sending by hierarchical superiors of messages which contain defamatory or malicious wording — particularly where they are sent, without a specific reason, to persons other than the person concerned — can be regarded as conduct constituting harassment within the meaning of Article 12a of the Staff Regulations (see, *a contrario*, judgments in *Lo Giudice* v *Commission*, EU:T:2007:322, paragraphs 104 and 105, and *Tzirani* v *Commission*, EU:F:2013:115, paragraph 97), the duty of loyalty referred to in Article 11 of the Staff Regulations and the duty of every official, pursuant to Article 12 of those regulations, to refrain from any action or behaviour which might reflect adversely upon his position mean that every subordinate has a duty to refrain from groundlessly challenging the authority of his superiors and, in any event, to demonstrate moderation and prudence when sending e-mails challenging that authority and when choosing the persons to whom such e-mails are to be sent.

123 Concerning the brief withdrawal of some of the applicant's tasks and duties, irrespective of the fact that the Parliament's medical department was consulted and the circumstances in which that consultation took place, it was possible to justify that withdrawal on medical grounds from the moment that the applicant had been absent on sick leave on several occasions and had cited 'burnout'. It is clear from the case-file that it was above all in order to avoid further disputes in connection with her participation in activities outside the Unit that the applicant was relieved of tasks which were secondary to her main duties. Since the applicant has in no way been relieved of those main duties, which are the most important from the perspective of the interest of the service, that is to say, she has not been relieved of the interpreting work which, it appears, she carries out to the satisfaction of

her institution, the Tribunal does not see how depriving her of certain secondary tasks — albeit ones which she enjoys — would have the objective effect, in the wider context of the events described, of undermining her personality, dignity or physical or psychological integrity.

124 Concerning the various medical certificates and reports which the applicant appended to her application to show that, by their conduct, her Head of Unit and her Director undermined her personality, dignity or physical or psychological integrity, the Tribunal finds that, while it is true that those medical certificates and reports reveal that the applicant has psychological problems, they do not establish that those problems result from psychological harassment since the authors of the certificates have necessarily based their findings of harassment exclusively on the description that the applicant was able to provide of her working conditions within the Parliament (see judgments in *K* v *Parliament*, EU:F:2008:158, paragraph 41, and *CQ* v *Parliament*, EU:F:2014:214, paragraph 127). In any event, the opinions of medical experts, even where they are purportedly based on information other than the account given by the official concerned of his working conditions, are, in themselves, not such as to establish the existence, in law, of harassment or of fault on the part of the institution in the light of its duty to provide assistance (judgment in *BQ* v *Court of Auditors*, T-7/14 P, EU:T:2015:79, paragraph 49).

125 Lastly, regarding the applicant's complaint concerning the Director's alleged habit of summoning her to meetings without informing her of the reasons for those meetings, the Tribunal points out that the applicant is obliged to make herself available to meet with her hierarchical superior when that person summons her to a meeting (judgment in *CW* v *Parliament*, EU:F:2014:186, paragraph 123). Moreover, it is clear from the case-file that, each time that the applicant asked him, the Director told her the purpose of the meetings in question. The Tribunal also notes that, ultimately, those meetings appear to have been attempts by the management to overcome relational difficulties between the Head of Unit and the applicant which, for the most part, were caused by the applicant's conduct in challenging the authority of the Head of Unit, whose application for that post had been accepted while the applicant's had been rejected.

126 In the light of all of the foregoing, the Tribunal concludes that the Parliament did not make a manifest error of assessment or misuse its power in finding, in the decision refusing assistance, that, in view of the evidence brought to its attention by the applicant and the evidence connected with her 2011 staff report, the conduct complained of could not be regarded as psychological harassment within the meaning of Article 12a of the Staff Regulations. In the same way, the evidence submitted by the applicant does not permit a finding that her working conditions marginalised her health and her dignity within the meaning of Article 31(1) of the Charter.

127 Consequently, the first plea in law must be rejected as unfounded.

Second plea in law: breach of the duty of care and of the duty to provide assistance enshrined in Article 24 of the Staff Regulations

Arguments of the parties

128 In support of her second plea in law, the applicant submits that, in spite of the fact that she had provided the appointing authority with prima facie evidence of the attacks to which she had been subjected by the Head of Unit and the Director, the appointing authority did not adopt the measures which she had requested, which constitutes a breach of both its duty to provide assistance and the duty of care.

129 Regarding the decision rejecting the complaint, the applicant argues that the appointing authority was wrong to criticise her for not having approached the Advisory Committee on Harassment on the ground that, within the Secretariat of the Parliament, inquiries into alleged cases of harassment are

entrusted to that committee. Accordingly, the ground given for rejecting her complaint, namely, that it was premature because that committee had not been approached, is incorrect. In that regard, she stresses that she had taken the initiative and had approached the Committee, but that its Chairman had not got back in touch with her on the subject. In her opinion, the lack of reaction from the Committee, its failure to act and its silence despite the assurances given by the appointing authority are a cause for general concern justifying her doubts as regards the appointing authority's ability confidently to delegate the handling of cases of psychological harassment at the Parliament to that committee.

130 In any event, the applicant argues that, contrary to what the Parliament suggests, the appointing authority did not entrust the powers it holds under Article 24 of the Staff Regulations to the Advisory Committee on Harassment. At any rate, it is incomprehensible that, if that was the case, the appointing authority did not then, in the circumstances, refer the case to that committee of its own motion. The applicant also suggests that the appointing authority could have entrusted the conducting of an inquiry to an independent ad hoc person or body.

131 In addition, in view of the importance and the seriousness of the facts alleged, the applicant argues that the Parliament should, even before carrying out an inquiry with a view to establishing whether those events had in fact taken place, have begun by reassigning the Head of Unit and/or the Director or, in the alternative, by reassigning the applicant as she had previously asked in her request for assistance. She also complains that the appointing authority refused to grant her request for assistance on the basis of general information on the situation in the Unit collected in the context of the inquiry carried out following her colleague CQ's complaint of harassment even though, first, the applicant was requesting that a full-scale inquiry be conducted and, second, her demands were unrelated to the findings reached at the end of the inquiry carried out at CQ's request.

132 The Parliament contends that the second plea in law should be rejected as unfounded, noting that, at the time when the appointing authority received the applicant's request for assistance (5 February 2013), it was already well aware of her allegations, partly as a result of the complaint she had brought against her 2011 staff report, which had provided a description of the facts, but also as a result of the procedure initiated by her colleague CQ, leading to the delivery of an opinion by the Advisory Committee on Harassment, the conducting of an inquiry by the Director-General, and the adoption of decisions by the appointing authority which subsequently became the subject-matter of the action registered as Case F-12/13. It was therefore in full awareness of the facts and on the basis of the evidence adduced by the applicant, the investigations already carried out and the reports already drafted that the request for assistance was refused. On the other hand, the Secretary-General of the Parliament's request for the applicant to approach the Advisory Committee on Harassment again was made purely in a spirit of openness and concern, as was explained at the hearing. Regarding the fact that the appointing authority did not approach the Committee of its own motion, the Parliament argues that it was for the applicant to take that step on the basis of her duty of sincere cooperation towards her institution.

Findings of the Tribunal

– Preliminary considerations

133 As a preliminary point, it is important to distinguish the applicant's request submitted to the Chairman of the Advisory Committee on Harassment from the request for assistance which she made to the appointing authority pursuant to Article 24 of the Staff Regulations.

134 Regarding the Advisory Committee on Harassment, the Tribunal notes that, as can be seen from the Internal Rules, that committee was created with a view to implementing Article 12a of the Staff Regulations and that its principal tasks consist in promoting a peaceful and productive working

environment, preventing and/or stopping any harassment of staff members, and playing a role of conciliation, mediation, training and information. Under Articles 6 and 7 of the Internal Rules, the Advisory Committee on Harassment 'shall listen sympathetically to any person who considers that he/she is the victim of harassment and shall give him/her all the necessary time and attention, ensuring that it maintains an unbiased and objective approach and an awareness of the multicultural environment in which it is working; [it] shall work with complete autonomy, independence and confidentiality'.

135 As regards referral to the Committee, under Articles 9 to 11 of the Internal Rules any staff member who is experiencing a problem which might constitute harassment or who considers that a problem of that kind exists in his working environment may report the matter to the Advisory Committee on Harassment, which must see that staff member within ten working days of his request. After hearing from the supposed victim and his alleged harasser and, where appropriate, from other colleagues of those persons within the month following the hearing of the supposed victim (the person who has approached the Committee), the Committee may, pursuant to Article 12 of the Internal Rules, make recommendations to the complainant's management staff with a view to resolving the problem. If the problem persists, Article 14 of the Internal Rules allows the Advisory Committee on Harassment to forward a confidential report to the Secretary-General of the Parliament containing proposals on the action to be taken, asking him — where appropriate — for instructions to conduct a detailed investigation, at the end of which it must then draw up and forward its findings and any recommendations to the Secretary-General. In such a situation, the Secretary-General of the Parliament must notify the Committee of the measures he intends to take, in accordance with Article 16 of the Internal Rules.

136 It also follows from Articles 10 and 11 of those Internal Rules that the possibility of any staff member of the institution approaching the Advisory Committee on Harassment is not conditional upon that staff member producing any prima facie evidence permitting a finding of harassment and that, once approached, that committee is bound to carry out the tasks which have been entrusted to it as listed above; the performance of such duties is not subject to any prior decision of the appointing authority, except where the Committee itself approaches the appointing authority under — inter alia — Article 14 of the Internal Rules.

137 Furthermore, although it may be desirable in certain cases, particularly with a view to mediation, referral to the Advisory Committee is not a necessary precondition for an official to be able to submit a request for assistance pursuant to Article 24 of the Staff Regulations in the circumstances provided for in Articles 90 and 91 of the Staff Regulations (see, to that effect, judgment in *Faita* v *EESC*, EU:F:2013:130, paragraph 91). In contrast to the wording and purpose of Article 12a of the Staff Regulations and of the Internal Rules adopted by the Parliament to implement that provision, Article 24 of the Staff Regulations does not specifically mention preventing or combating harassment but, more generally, allows any person covered by the Staff Regulations to request the intervention of the appointing authority in order that it may adopt any measure to 'assist any official, in particular in proceedings against any person perpetrating threats, insulting or defamatory acts or utterances, or any attack to person or property to which he ... is subjected by reason of his position or duties'.

138 It follows that the submission of a request for assistance pursuant to Article 24 of the Staff Regulations does not require the person concerned, even where the request for assistance relates to a case of harassment, to approach the Advisory Committee on Harassment created by the Parliament on the basis of Article 12a of the Staff Regulations beforehand, irrespective of the fact that the appointing authority may, under Article 14 of the Internal Rules, decide in certain situations to instruct the Advisory Committee on Harassment to conduct an inquiry into the supposed harassment that has been brought to the appointing authority's attention.

– Breach of the duty to provide assistance and the duty of care

139 In the present case, the Tribunal notes that the applicant had sought the assistance of the Chairman of the Advisory Committee on Harassment on the ground that, '[s]ince February 1, 2012, [she had] been exposed to an enormous pressure exerted by [her] two superiors'. Although that request did not explicitly refer to psychological harassment and did not contain any prima facie evidence of the 'enormous pressure' mentioned by the applicant, pursuant to the Internal Rules the Committee was required to see the applicant within ten working days, which it clearly failed to do. In that regard, the reason given by the Parliament as justification for that infringement of the Internal Rules by the Committee, namely, that the Chairman of that committee was in the process of moving to a new office following his reassignment to a new managerial position in another Directorate-General, is not relevant, since, although it can be seen from the e-mails sent by the applicant to the secretary of the Committee and to its Chairman that the applicant wished to meet with the Chairman of the Committee in person, it was for the Committee, as an advisory body approached through its Chairman, to take the necessary measures to ensure that another of its members — two of whom were already copied in to part of the correspondence in question — take responsibility for the applicant's request, which it clearly failed to do.

140 Regardless of whether the Advisory Committee has been approached, as has been stated previously, the applicant was, in any event, entitled to submit a request for assistance to the appointing authority pursuant to Article 24 of the Staff Regulations without being subject to an obligation to refer the matter to that committee beforehand or to wait for a response from that committee.

141 In that regard, as has been recalled in paragraph 37 above, it was for the applicant to adduce, in support of her request for assistance, prima facie evidence that the attacks to which she claimed to have been subjected by her Head of Unit and her Director had actually taken place.

142 In the present case, although the evidence which the applicant adduced in her request for assistance did not establish the existence of the alleged harassment, the appointing authority could have taken the view, in a spirit of openness inspired by its duty of care, that, to a certain extent, that evidence could constitute prima facie evidence of such harassment. Thus, it was in principle for the Parliament to take the appropriate measures, in particular by carrying out an inquiry, with the cooperation of the complainant, in order to establish the facts giving rise to the complaint. In the exercise of its powers, the administration may, for that purpose, supplying the appropriate logistical and human resources, decide to entrust the conducting of an inquiry of that kind to the hierarchy of the institution — such as a Director-General, an ad hoc committee of inquiry, or an advisory committee on harassment — or even to a person or body outside that institution.

143 However, regarding the legality of a decision refusing, without an administrative inquiry having been opened, to grant a request for assistance brought on the basis of Article 24 of the Staff Regulations, the EU Courts must assess the merits of that decision in the light of the evidence which had been brought to the administration's attention, in particular by the person concerned in her request for assistance, at the time when the decision was made (judgment in *Faita* v *EESC*, EU:F:2013:130, paragraph 98).

144 In that regard, the Tribunal notes that, first, in her request for assistance the applicant had provided copious documentary evidence, including e-mails, to substantiate her allegations. Secondly, in her request for assistance, the applicant stated that '[t]he [appointing authority], to [whom] a formal request for assistance and a complaint [had] been presented [by CQ], [was] fully aware of the situation and [had] given a mandate to the Director-General to investigate the matter'.

145 Consequently, contrary to the applicant's assertions, the appointing authority was entitled to take into account, in its processing of the applicant's request for assistance, the items of information of which it was already aware and to which the applicant had directly and/or indirectly referred in her request,

namely, inter alia, the advice provided by the Advisory Committee on Harassment and the inquiry conducted by the Director-General following CQ's complaint of harassment, given that, in addition, CQ's request for assistance involved the same actors, all of whom, including the applicant, had been heard — some of them on several occasions — by the Committee and the appointing authority. What is more, the applicant had referred to the events at issue in part when contesting her staff reports for 2011 and 2012.

146 In view of the evidence provided by the applicant and the evidence known to the Parliament in connection with the 2011 staff report and with CQ's complaint of harassment, the Tribunal holds that, in the circumstances, the appointing authority was in a position to state in the decision refusing assistance that it had, at that stage, sufficient awareness of the reality and the significance of the facts alleged by the applicant to be able to conclude that those facts did not constitute psychological harassment, as the Tribunal itself has confirmed in its examination of the first plea in law.

147 Therefore, in the circumstances of the present case, in which the conducting of a new inquiry would have involved questioning the same actors that had already been heard in the course of the inquiry carried out following CQ's complaint of harassment, regarding events at least some of which were identical to those referred to by CQ and which would not necessarily have shed any further light in relation to the already sufficiently exhaustive evidence submitted to the appointing authority by the applicant, the Tribunal considers that, in not ordering the launching of a 'a full-scale inquiry into [the] management methods [of her Head of Unit and the Director] and [their] behaviour towards [the applicant]', the Parliament did not make a manifest error of assessment in its choice of measures and methods for applying Article 24 of the Staff Regulations, in respect of which it has a broad discretion, and, accordingly, did not infringe that provision.

148 What is more, when determining the measures which it deems appropriate for the purposes of establishing the reality and the significance of the events invoked, the appointing authority must also ensure that the rights of persons likely to be involved in an inquiry are protected, with the result that, in the particular circumstances of the present case, before once again exposing all the actors involved to a new inquiry — which might prove needlessly trying not only for the management, but also for the members of the Unit — the appointing authority had to ensure that it had evidence capable of substantiating genuine suspicions of harassment (see, to that effect, judgment in *Commission* v *Nanopoulos*, T-308/10 P, EU:T:2012:370, paragraph 152), not least with regard to the previous findings of the appointing authority and of the Advisory Committee on Harassment in the context of CQ's complaint of harassment. However, in the present case, there was no such evidence.

149 Regarding the applicant's request for the Head of Unit and/or the Director to be reassigned so that she might be protected from their alleged abuses, the Tribunal finds that, in view of the case-law cited in paragraph 40 above, since the facts alleged by the applicant do not demonstrate a failure on the part of her superiors to fulfil their obligations under Article 12a of the Staff Regulations, the appointing authority did not infringe Article 24 of the Staff Regulations in refusing to grant that request; nor did it breach its duty of care. The same is true in respect of the applicant's request seeking the 'adopt[ion of] a decision that would have the [equivalent] effect' such as her reassignment, especially since the applicant — previously a temporary staff member in another interpretation unit — had been hired by her current Unit at the end of 2007, and that change of unit took place in the context of the applicant lodging another complaint of psychological harassment in 2005 which had been rejected by the appointing authority.

150 Regarding the fact that the appointing authority did not directly approach the Advisory Committee on Harassment asking it to examine, as one of its tasks as defined in the Internal Rules, the applicant's complaint which it had failed to deal with, the Tribunal finds that, in view of the applicant's line of argument in her request for assistance — a line of argument which she repeated in her complaint and in her application — the appointing authority would ultimately have gone against the applicant's wishes if it had approached a committee in which the applicant claimed to have lost all confidence.

To the extent that, by her arguments, the applicant criticises the appointing authority for not having entrusted the responsibility for carrying out an exhaustive inquiry to the Committee, inter alia under Article 14 of the Internal Rules, the Tribunal finds, first, that the application of that provision requires that the Committee send a request to the Secretary General of the Parliament asking him to give that Committee instructions for the conduct of a detailed enquiry, whereas there was no such request in this case, and, second, as has been stated previously, the appointing authority was able validly to decide that it had sufficient awareness of the facts to refuse the request for assistance as unfounded without feeling the need to entrust the task of conducting further investigations to the Advisory Committee on Harassment or any other body.

151 That being so, the Tribunal notes that, while in the decision refusing assistance the request for assistance was refused on the merits following a detailed examination of the events at issue mentioned by the applicant, the complaint, by contrast, was rejected chiefly on the ground that it was premature since, in view of the applicant's desire to have a full-scale inquiry conducted, it was for her to address the Advisory Committee on Harassment beforehand, that being the appropriate body to conduct an inquiry of that kind.

152 However, as has been recalled in paragraphs 134 to 138 above, referral to the Advisory Committee on Harassment is not a prerequisite for submitting a request to the appointing authority for assistance on the basis of Article 24 of the Staff Regulations and, where appropriate, a complaint if that request is refused. The fact that, in the decision refusing assistance, the appointing authority invited the applicant to approach the Committee through the intermediary of its new Chairman is not relevant in that regard. The Tribunal also notes that, from a temporal perspective, while the applicant cited, in her request for assistance, events which had taken place from April 2011 onwards, including those relating to the drafting of the minutes of the meeting of 23 May 2011 and those relating to her non-participation in a summer university course, the applicant's e-mail to the Advisory Committee on Harassment referred only — rather tersely — to the professional pressure she had been experiencing since 1 February 2012.

153 Lastly, it is true that a request under Article 90(1) of the Staff Regulations may be refused on the ground of being premature. However, that is not the case for a complaint, in respect of which the three-month limitation period laid down in Article 90(2) of the Staff Regulations is still running in any event, notwithstanding the possibility of the complainant approaching an advisory committee on harassment such as the one in place at the Parliament.

154 Accordingly, in rejecting the complaint on the ground that it was, allegedly, premature in so far as the applicant should first have relied on the Advisory Committee on Harassment, the appointing authority based its decision on an incorrect ground which could be such as to mislead staff members as to the respective competences and responsibilities of the Advisory Committee on Harassment and the appointing authority in the area of psychological harassment as set out in paragraphs 134 to 138 above.

155 [As rectified by order of 3 December 2015] However, an incorrect ground of that kind is not such as to undermine the legality of the decision rejecting the complaint or the decision refusing assistance: in reminding the applicant in the decision rejecting the complaint that, according to case-law, the existence of difficult, even conflictual relations between an official and his superiors does not, in itself, constitute proof of psychological harassment, the appointing authority sought to endorse, with regard to the substance, albeit in the alternative, the detailed examination which had been carried out in the decision refusing assistance, or, at the very least, did not seek to undermine the results of that examination. That is also what the Parliament contended, in particular at the hearing. Moreover, irrespective of the outcome of the present action, the Tribunal finds that the Advisory Committee on Harassment is entrusted with a task of conciliation and mediation, which could be suitable for

resolving the difficulties encountered by the applicant (even if those difficulties do not constitute harassment within the meaning of Article 12a of the Staff Regulations) with a view to restoring a 'peaceful and productive working environment' pursuant to Article 5 of the Internal Rules.

156 In the light of all of the foregoing, and without it being necessary for the Tribunal to order the translation into English by an independent translator of certain e-mails written in Czech, the second plea in law must be rejected and, accordingly, the claims for annulment of the decision refusing assistance and the decision rejecting the complaint must be dismissed in their entirety.

3. *The claim for damages*

157 The applicant claims that the Tribunal should order the Parliament to pay her EUR 50 000 by way of compensation for the non-material damage she has suffered and to pay her, for the material damage suffered, a quarter of the amount of the medical fees which she has incurred as a result of the deterioration of her state of health, plus interest on the total of those two amounts.

158 The Parliament chiefly contends that the claim for damages should be rejected as inadmissible and, in the alternative, that it should be rejected as unfounded.

159 Irrespective of whether, in view of the rule that the application must correspond to the complaint, the applicant had intended by asking the appointing authority 'to redress the wrongs the contested decision [had] caused or could still cause her' to refer in her complaint to compensation for material and/or non-material damage, it should be borne in mind that claims for compensation for material or non-material damage must be rejected where, as in the present case, they are closely associated with claims for annulment which have themselves been dismissed as unfounded (judgment in *López Cejudo* v *Commission*, F-28/13, EU:F:2014:55, paragraph 105 and the case-law cited).

160 In view of the fact that the claims for annulment have been rejected and that, accordingly, there is no fault on the part of the administration which is such as to entail its liability, the claim for damages must be rejected.

Costs

161 Under Article 101 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 bear his own costs and is to be ordered to pay the costs incurred by the other party if they have been applied for in the other party's pleadings. However, under Article 102(2) of those rules, a successful party may be ordered to bear his own costs and to pay some or all of the costs incurred by the other party if this appears justified by the conduct of that party, including before the proceedings were brought, especially if he has made the other party incur costs which are held to be unreasonable or vexatious.

162 It is apparent from the grounds set out in the present judgment that the applicant's action has been unsuccessful. In addition, in its pleadings, the Parliament has expressly asked the Tribunal to order the applicant to pay the costs. However, in view of the breakdown in the functioning of the Committee on the one hand, resulting in a breach of the Internal Rules, the failure to take responsibility for the applicant's request addressed to the former Chairman of that committee, and the inadequate statement of the main reasons for the decision rejecting the complaint on the other, the Tribunal finds that the application of Article 102(2) of the Rules of Procedure is justified in the present case, and thus decides that the Parliament must bear its own costs and be ordered to pay half of the costs incurred by the applicant.

On those grounds,

THE CIVIL SERVICE TRIBUNAL (First Chamber)

hereby:

1. **Dismisses the action;**

2. **Declares that the European Parliament is to bear its own costs and orders it to pay half of the costs incurred by CW;**

3. **Declares that CW is to bear half of her own costs.**

Barents Perillo Svenningsen

Delivered in open court in Luxembourg on 26 March 2015.

W. Hakenberg
President

R. Barents
Registrar