Reports of Cases

JUDGMENT OF THE COURT (Seventh Chamber)

21 November 2024*

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(Appeal – Civil service – Members of the contract staff – Contract for an indefinite period – Termination of the contract – Article 47(c)(i) of the Conditions of Employment of Other Servants of the European Union – Incompetence – Conduct in the service and attitude at work incompatible with the interests of the service – Obligation to state reasons – Right to be heard – Right to parental leave – Article 42a of the Staff Regulations of Officials of the European Union)

In Case C-546/23 P,

APPEAL under Article 56 of the Statute of the Court of Justice of the European Union, brought on 29 August 2023,

UG, represented by M. Richard, avocat,

appellant,

the other party to the proceedings being:

European Commission, represented initially by I. Melo Sampaio and A. Sauka, acting as Agents, and subsequently by A. Sauka, acting as Agent,

defendant at first instance,

THE COURT (Seventh Chamber),

composed of F. Biltgen, President of the First Chamber, acting as President of the Seventh Chamber, M.L. Arastey Sahún (Rapporteur), President of the Fifth Chamber, and J. Passer, Judges,

Advocate General: P. Pikamäe,

Registrar: A. Calot Escobar,

having regard to the written procedure,

having decided, after hearing the Advocate General, to proceed to judgment without an Opinion,

gives the following

Judgment

1 By her appeal, UG asks the Court of Justice to set aside the judgment of the General Court of the European Union of 21 June 2023, *UG* v *Commission* (T-571/17 RENV, EU:T:2023:351; 'the judgment under appeal'), by which the General Court dismissed her action seeking, first, annulment of the decision of 17 October 2016 by which the European Commission terminated her contract as a member of the contract staff ('the decision at issue') and, second, compensation for the material and non-material harm UG claims to have sustained as a result of that decision.

I. Legal context

A. The Staff Regulations

2 Article 42a of the Staff Regulations of Officials of the European Union, in the version applicable to the facts of the case ('the Staff Regulations'), provides:

'An official shall be entitled to up to six months of parental leave without basic salary for every child, to be taken during the first twelve years after the birth or adoption of the child. …'

3 Article 47 of the Staff Regulations provides:

'Services shall be terminated by:

…

(d) dismissal for incompetence;

…’

4 Article 51 of the Staff Regulations reads as follows:

‘1. The appointing authority of each institution shall define procedures to identify, deal with and remedy cases of incompetence in a timely and appropriate fashion.

When adopting internal provisions, the appointing authority of each institution shall respect the following requirements:

(a) an official who, on the basis of three consecutive unsatisfactory annual reports as referred to in Article 43, still shows no progress in his professional competence shall be downgraded by one grade. If the following two annual reports still show unsatisfactory performance, the official shall be dismissed;

(b) any proposal to downgrade or dismiss an official shall set out the reasons on which it is based and shall be communicated to the official concerned. The proposal from the appointing authority shall be referred to the Joint Advisory Committee provided for in Article 9(6).

2. The official shall have the right to obtain his complete personal file and to take copies of all documents relating to the procedure. He shall have at least 15 days, but no more than 30 days, from the date of receipt of the proposal to prepare a defence. He may be assisted by a person of his choice. The official may submit written comments. He shall be heard by the Joint Advisory Committee. The official may also call witnesses.

…’

5 Article 60 of the Staff Regulations provides:

‘Except in case of sickness or accident, an official may not be absent without prior permission from his immediate superior. Without prejudice to any disciplinary measures that may apply, any unauthorised absence which is duly established shall be deducted from the annual leave of the official concerned. If he has used up his annual leave, he shall forfeit his remuneration for an equivalent period.

…’

6 The sixth paragraph of Article 1 of Annex II to the Staff Regulations is worded as follows:

‘The duties undertaken by members of the Staff Committee and by officials appointed by the Committee to organs set up under the Staff Regulations or by the institution shall be deemed to be part of their normal service in their institution. The fact of performing such duties shall in no way be prejudicial to the person concerned.’

7 Article 9(1)(h) of Annex IX to the Staff Regulations provides:

‘The Appointing Authority may impose one of the following penalties:

…

(h) removal from post and, where appropriate, reduction pro tempore of a pension or withholding, for a fixed period, of an amount from an invalidity allowance; the effects of this measure shall not extend to the official's dependants. In case of such reduction however, the former official's income may not be less than the minimum subsistence figure laid down in Article 6 of Annex VIII, with the addition of any family allowances payable.'

B. The CEOS

8 Article 47 of the Conditions of Employment of Other Servants of the European Union, in the version applicable at the material time ('the CEOS'), is worded as follows:

'Apart from cessation on death, the employment of temporary staff shall cease:

…

(c) where the contract is for an indefinite period:
(i) at the end of the period of notice stipulated in the contract; the length of the period of notice shall not be less than one month for each completed year of service, subject to a minimum of three months and a maximum of 10 months. The period of notice shall not, however, start to run during pregnancy if confirmed by a medical certificate, maternity leave or sick leave, provided such sick leave does not exceed three months. It shall, moreover, be suspended during pregnancy if confirmed by a medical certificate, maternity or sick leave subject to the limits aforesaid;

…'

C. The Framework Agreement

9 Clause 5(4) of the revised Framework Agreement on parental leave concluded on 18 June 2009, which is annexed to Council Directive 2010/18/EU of 8 March 2010 implementing the revised Framework Agreement on parental leave concluded by BUSINESSEUROPE, UEAPME, CEEP and ETUC and repealing Directive 96/34/EC (OJ 2010 L 68, p. 13; 'the Framework Agreement'), provided:

'In order to ensure that workers can exercise their right to parental leave, Member States and/or social partners shall take the necessary measures to protect workers against less favourable treatment or dismissal on the grounds of an application for, or the taking of, parental leave in accordance with national law, collective agreements and/or practice.'

D. Directive 2002/14/EC

10 Article 7 of Directive 2002/14/EC of the European Parliament and of the Council of 11 March 2002 establishing a general framework for informing and consulting employees in the European Community (OJ 2002 L 80, p. 29), provides:

'Member States shall ensure that employees' representatives, when carrying out their functions, enjoy adequate protection and guarantees to enable them to perform properly the duties which have been assigned to them.'

II. Background to the dispute

11 The background to the dispute has, in part, been set out in paragraphs 2 to 19 of the judgment under appeal. For the purposes of the present proceedings, it may be summarised as follows.

12 On 20 March 2007, UG was recruited by the Commission's Office for Infrastructure and Logistics in Luxembourg (OIL) as a member of the contract staff, in accordance with Article 3a(a) of the CEOS, to perform the duties of educator at the Early Childhood Centre, for a fixed period from 1 April 2007 to 31 March 2009.

13 On 25 February 2009, UG's contract was extended until 31 March 2010.

14 On 5 February 2010, that contract was extended for an indefinite period, with effect from 1 April 2010.

15 From 16 November 2011 to 1 April 2014, UG was exempted from her duties as a teacher for 50% of her working time, in view of the fact that she held a half-time union mandate with a trade union organisation.

16 On 13 May 2014, UG was elected to the Luxembourg (Luxembourg) local staff committee and was appointed as a member of the Central Staff Committee, sitting in Brussels (Belgium) (together, 'the Staff Committees').

17 On 8 April 2016, the authority empowered to conclude contracts of employment ('the AECCE') drew up UG's appraisal report for 2015 ('the 2015 appraisal report'), according to which her overall performance was considered unsatisfactory for the period from 1 January to 31 December 2015.

18 On 15 July 2016, UG took parental leave, at her request, until 14 November 2016.

19 By letter of 8 September 2016 ('the letter of 8 September 2016'), the AECCE informed UG of its intention to terminate her contract on the basis of Article 47 of the CEOS, on account of the unsatisfactory nature of her performance and her conduct in the service since 2013.

20 By letter of 30 September 2016, the appellant disputed the reasons relied on by the AECCE in the letter of 8 September 2016.

21 On 17 October 2016, the AECCE adopted the decision at issue, by which it terminated UG's contract on the basis of Article 47(c) of the CEOS, with effect from 31 July 2017, taking into account a nine-month notice period running from 1 November 2016.

22 On 29 November 2016, the AECCE finally fixed the start of that notice period at 21 November 2016 and the end of that contract at 20 August 2017.

23 At UG's request, dated 16 December 2016, her parental leave was extended until 20 August 2017.

24 On 17 January 2017, UG lodged a complaint against the decision at issue under Article 90(2) of the Staff Regulations.

25 On 18 May 2017, the AECCE rejected that complaint.

26 By application lodged at the Registry of the General Court on 22 August 2017, the appellant brought an action seeking, inter alia, annulment of the decision at issue and compensation for the material and non-material damage that she claims to have suffered as a result of that decision.

27 By judgment of 2 April 2020, *UG* v *Commission* (T-571/17, EU:T:2020:141; 'the initial judgment'), the General Court (i) annulled the decision at issue, (ii) invited the parties to transmit to it, within a period of three months, either the mutually agreed amount of the monetary compensation resulting from the unlawfulness of that decision or, in the absence of agreement, their submissions as to that amount, (iii) dismissed the remainder of the claims and, (iv) reserved the costs.

28 By order of 13 November 2020, *UG* v *Commission* (T-571/17, EU:T:2020:553), the General Court, first, held that there was no longer any need to rule on the monetary compensation resulting from the decision at issue and, secondly, ordered the Commission to bear, in addition to its own costs, half of UG's costs and ordered UG to bear half of her own costs.

29 By judgment of 25 November 2021, *Commission* v *UG* (C-249/20 P, EU:C:2021:964; 'the judgment on appeal'), the Court of Justice set aside the initial judgment in so far as it had (i) annulled the decision at issue, (ii) found that there was an illegality capable of rendering the Commission liable and, (iii) dismissed as inadmissible UG's claim for compensation for non-material damage.

30 In paragraph 27 of the judgment on appeal, the Court of Justice found that the General Court had manifestly distorted the content of the letter of 8 September 2016 by holding, in paragraphs 64, 70 and 71 of the initial judgment, that, in that letter, the AECCE had criticised UG for not having fulfilled, within a period of three months, the objectives assigned to her in the 2015 appraisal report.

31 Furthermore, in paragraph 38 of the judgment on appeal, the Court of Justice held that while, as is apparent from paragraphs 70 and 71 of the initial judgment, the tasks required of UG had been conceived and described as falling within a certain period of time, the General Court did not set out the reason why it considered that it was not reasonable to require UG to draw up a table of educational actions within a period of three months.

32 In those circumstances, the Court of Justice concluded, in paragraph 39 of the judgment on appeal, that the General Court had failed to fulfil its obligation to state reasons, since the grounds of the initial judgment did not make it possible to understand, even implicitly, the reason why it had considered that the three-month period granted to UG to draw up the table of educational actions was too short.

33 That being so, the Court of Justice referred the case back to the General Court and reserved the costs.

III. Procedure before the General Court ruling after the case had been referred back and the judgment under appeal

34 In support of her claim for annulment of the decision at issue, set out in Case T-571/17 RENV, UG relied, in essence, on seven pleas in law, alleging (i) failure to state reasons; (ii) infringement of Article 51 of the Staff Regulations and of the right to be heard; (iii) errors of law in relation to the right of employees to parental leave and to information and consultation; (iv) a number of

manifest errors of assessment and errors of fact; (v) breach of the principle of proportionality; (vi) breach of the disciplinary procedure provided for in Annex IX to the Staff Regulations; and (vii) misuse of powers.

35 The General Court rejected all of those pleas as unfounded.

36 In addition, the General Court ruled on the applicant's claim for damages that the Commission should be ordered to pay her, first, compensation corresponding to the salary of which she had been deprived since the date on which her dismissal took effect and, second, compensation for non-material damage as a result of the degrading and discriminatory treatment allegedly suffered by her on account of her trade union activity and the taking of parental leave.

37 In that regard, the General Court found that the appellant did not rely, in support of her claim for damages, on grounds of illegality that differed from those which she had put forward in support of her claim for annulment of the decision at issue. In those circumstances, and given that the claim for annulment had been rejected as unfounded, the General Court held that the claim for damages should also be dismissed, without its being necessary to rule on its admissibility.

38 Consequently, the General Court dismissed the action brought by UG in its entirety.

IV. Forms of order sought by the parties to the appeal

39 By her appeal, UG claims that the Court should:

– set aside the judgment under appeal in so far as the General Court held her dismissal to be well founded and ordered her to pay one third of the Commission's costs and expenses;

– upon re-examining the case, award her the sum of EUR 68 000 by way of compensation for material damage suffered;

– upon re-examining the case, award her the sum of EUR 40 000 by way of compensation for non-material damage;

– order the Commission to reimburse all the costs and expenses, and her legal fees in the context of the present appeal, provisionally estimated at EUR 10 000, subject to increase; and

– order the Commission to reimburse all the costs and expenses, together with her legal fees in connection with the present appeal, in the amount of EUR 30 000.

40 The Commission contends that the Court should:

– dismiss the appeal and

– order UG to pay the costs.

V. The appeal

41 In support of her application to set aside the judgment under appeal, UG relies, in essence, on four grounds of appeal alleging (i) infringement of the protection relating to parental leave, (ii) infringement of the protection of staff representatives, (iii) manifest errors of assessment and, (iv) breach of the principle of proportionality.

A. The first ground of appeal

1. Arguments of the parties

42 UG submits that, in paragraphs 92 and 93 of the judgment under appeal, the General Court drew an unjustified distinction between, on the one hand, the adoption of the decision to dismiss during parental leave and, on the other, the taking effect of that decision at the time when the person concerned was on parental leave, and wrongly concluded that the adoption of the decision at issue at the time when she was on parental leave did not constitute an infringement of Article 42a of the Staff Regulations, read in the light of the minimum requirements contained in Clause 5(4) of the Framework Agreement.

43 In UG's view, the decision at issue resulted in her not returning to work at the end of her parental leave, which demonstrates that the dismissal of a person during parental leave constitutes a breach of the protection provided for in Clause 5(4) of the Framework Agreement and of the employer's obligation to maintain the employment of the employee taking such leave.

44 UG submits that Articles 47 and 51 of the Staff Regulations, Article 9(1)(h) of Annex IX to the Staff Regulations and Article 47 of the CEOS must be interpreted in a manner consistent with the provisions of the Framework Agreement and Article 33(2) of the Charter of Fundamental Rights of the European Union ('the Charter'), that is to say, as precluding dismissal throughout the period of parental leave.

45 Moreover, it would be contrary to the requirements of protection against dismissal in connection with parental leave to equate incompetence with serious misconduct, as the General Court did in paragraph 109 of the judgment under appeal.

46 As regards paragraph 112 of the judgment under appeal, UG submits that it is extremely rare for the employer to mention, in an employee's letter of dismissal, the link between that dismissal and the employee's parental leave.

47 In so far as it is apparent from numerous documents in the file in the present case that UG's taking of parental leave was the real reason for her dismissal, the General Court was wrong to hold, in paragraph 144 of the judgment under appeal, that the illegality found in paragraph 142 of that judgment could not, in itself, entail the annulment of the decision at issue.

48 In the present case, UG's dismissal constitutes a misuse of powers by the Commission, since, on the pretext of a dismissal for incompetence, that institution in fact penalised UG for taking her parental leave at a time that did not suit the Commission.

49 Accordingly, the decision at issue constitutes discrimination in connection with the taking of parental leave, in breach of Article 14 of the European Convention for the Protection of Human Rights and Fundamental Freedoms, signed in Rome on 4 November 1950 ('the ECHR'), read in conjunction with Article 8 of that convention and Article 1 of Protocol No 12 thereto, signed in Rome on 4 November 2000.

50 The Commission contends that the first ground of appeal is inadmissible in so far as it seeks a new overall assessment of the case and is, in any event, unfounded.

2. Findings of the Court

(a) Admissibility

51 As regards the plea of inadmissibility raised by the Commission in the first ground of appeal, it must be recalled that it follows from Article 256 TFEU, the first paragraph of Article 58 of the Statute of the Court of Justice of the European Union and Article 168(1)(d) and Article 169 of the Rules of Procedure of the Court of Justice that an appeal must indicate precisely the contested elements of the judgment or order which the appellant seeks to have set aside and the legal arguments specifically advanced in support of the appeal. According to the settled case-law of the Court of Justice, that requirement is not satisfied by an appeal that merely reproduces the pleas in law and arguments previously submitted to the General Court. Such an appeal is, in reality, an appeal merely seeking a re-examination of the application before the General Court, which is outside the jurisdiction of the Court of Justice (see, to that effect, judgment of 11 July 2024, *Thunus and Others* v *EIB*, C-561/23 P, EU:C:2024:603, paragraphs 22 and 23 and the case-law cited).

52 In the present case, it suffices to note that, by the first ground of appeal, UG complains, in essence, that the General Court, inter alia, erred in law. In that regard, UG repeatedly sets out the contested elements of the judgment under appeal and the legal arguments specifically advanced in support of the application to have that judgment set aside.

53 In those circumstances, it cannot be held that the first ground of appeal is inadmissible.

(b) Substance

54 As a preliminary point, it should be noted that, in paragraphs 90 to 114 of the judgment under appeal, the General Court examined the merits of UG's complaint, alleging, in essence, that, by dismissing her during her parental leave, the Commission infringed Article 42a of the Staff Regulations, read in the light of the minimum requirements contained in Clause 5(4) of the Framework Agreement.

55 In that regard, the General Court held, in paragraphs 97 to 112 of that judgment, that Article 42a of the Staff Regulations does not prohibit the competent authority from adopting a decision dismissing an official or terminating the employment contract of a member of the contract or temporary staff, even though that staff member is on parental leave on the date of that decision and is, in principle, entitled to resume that post or his or her duties at the end of that leave.

56 As regards Clause 5(4) of the Framework Agreement, to which UG refers, the General Court held, in paragraph 111 of the judgment under appeal, that, in order to ensure that workers can actually exercise their right to parental leave, that clause requires the necessary measures to be taken to protect workers against less favourable treatment or dismissal on the grounds of an application for, or the taking of, parental leave. In that regard, the General Court relied on the judgment of 27 February 2014, *Lyreco Belgium* (C-588/12, EU:C:2014:99, paragraph 34).

57 Accordingly, in paragraph 112 of the judgment under appeal, the General Court held that that clause has neither the object nor the effect of prohibiting an employer from deciding to dismiss a worker, even though, on the date of that decision, the worker is on parental leave, provided that the reason for that dismissal is not that the worker has applied for or has taken that leave and complies with the other conditions laid down by the applicable law or regulations.

58 As regards Article 47 of the CEOS, as is apparent from paragraph 101 of the judgment under appeal, it should be noted that that article makes no provision for a reservation or derogation connected with the fact that the staff member concerned is on parental leave.

59 In paragraphs 115 to 146 of that judgment, the General Court examined UG's complaint that the decision at issue infringed Article 42a of the Staff Regulations, read in the light of the minimum requirements contained in Clause 5(4) of the Framework Agreement, on account of her request for parental leave.

60 As is apparent from paragraph 122 of that judgment, Article 42a of the Staff Regulations, read in the light of the minimum requirements contained in Clause 5(4) of the Framework Agreement, prohibits the competent authority from dismissing for incompetence an official or other staff member on the ground of an application for parental leave, in particular on grounds relating to the starting and finishing dates of that leave period or the duration of that leave requested in the application.

61 In paragraph 142 of the judgment under appeal, the General Court held that, although it was open to the AECCE to reject UG's request for parental leave on the ground that the dates envisaged for the duration of that leave were incompatible with the requirements of the service, the AECCE could not rely on the dates of parental leave requested as one of the grounds for dismissal on the ground of incompetence, without infringing the provisions of Article 42a of the Staff Regulations, read in the light of the minimum requirements contained in Clause 5(4) of the Framework Agreement.

62 After finding, for the reason mentioned in the preceding paragraph, that the decision at issue was illegal, the General Court held, in paragraphs 144 to 146 of the judgment under appeal, that, in the present case, the overall finding of UG's incompetence was based on several grounds, which were distinct from the ground relating to the dates which she had chosen in her application for parental leave. In those circumstances, the General Court concluded that that illegality could not, in itself, entail the annulment of the decision at issue.

63 It must be held that, by the first ground of appeal, UG has not demonstrated that the considerations set out in paragraphs 53 to 61 above are vitiated by errors of law.

64 As regards the judgment of 27 February 2014, *Lyreco Belgium* (C-588/12, EU:C:2014:99), on which the General Court based its reasoning, it cannot be interpreted as prohibiting, absolutely, the dismissal of a worker on parental leave, but must be understood as prohibiting such a dismissal without compelling or sufficient reason. That judgment thus prohibits dismissal on the grounds of an application for, or the taking of, parental leave.

65 Furthermore, in the judgment of 20 June 2013, *Riežniece* (C-7/12, EU:C:2013:410, paragraphs 34 and 35), the Court held that, as set out in Clause 2(4) of the Framework Agreement on Parental Leave concluded on 14 December 1995, which was included in the Annex to Council Directive 96/34/EC of 3 June 1996 on the framework agreement on parental leave concluded by UNICE, CEEP and the ETUC (OJ 1996 L 145, p. 4), as amended by Council Directive 97/75/EC of 15 December 1997 (OJ 1998 L 10, p. 24), workers should be protected against dismissal 'on the grounds of' an application for, or the taking of, parental leave and that that clause did not prohibit an employer from dismissing a worker who had taken parental leave where the dismissal was not due to the application for, or taking of, parental leave.

66 In the present case, as noted in paragraph 62 above, the overall finding of UG's incompetence was based on several grounds, which were separate from the ground relating to the dates that she had chosen for taking her parental leave.

67 As regards UG's argument that it is apparent from numerous documents in the file in the present case that her parental leave was the real reason for her dismissal, which the General Court failed to take into account, it suffices to note that, by that argument, UG is in fact seeking a re-examination of a factual argument already raised before the General Court. That argument must therefore be rejected as inadmissible, in accordance with the case-law referred to in paragraph 51 above.

68 It follows that the first ground of appeal must be rejected as in part unfounded and in part inadmissible.

B. The second ground of appeal

1. Arguments of the parties

69 By the second ground of appeal, UG criticises the General Court for having wrongly held, in paragraphs 165 and 168 of the judgment under appeal, that the decision at issue was not based solely on UG's status as a member of the Central Staff Committee sitting in Brussels and the Luxembourg local staff committee, while accepting that, in the grounds of that decision, the AECCE criticised UG for failing to take account of the interests of the service when planning her activities in connection with her duties as a staff representative in 2014 and 2016.

70 In that regard, to challenge a dismissal only where it is expressly based on the status of staff representative would render ineffective the minimum provisions laid down in Article 7 of Directive 2002/14 and deprive staff representatives of effective protection against dismissal on account of their trade union functions. It is rare for an employer, who wishes to dispose of a staff representative, to admit it in express terms in the grounds of its dismissal decision.

71 However, in the present case, the AECCE expressly referred on several occasions to UG's exercise of trade union activities, the examples given in that regard by UG testifying to the constant discrimination to which she had been subjected by her immediate superior.

72 The interpretation adopted by the General Court in paragraph 173 et seq. of the judgment under appeal, according to which an official or servant who is on 50% secondment for trade union purposes must, in accordance with Article 60 of the Staff Regulations, obtain prior permission from his or her immediate superior in order to be absent from the service and to take part in the meetings to which he or she is invited on the basis of his or her trade union mandate or mandate as a staff representative, is contrary to the principle of trade-union independence and to the principle that the performance of trade union duties must be equivalent to employment. Furthermore, that interpretation constitutes discrimination on the grounds of the exercise of trade union functions, prohibited by Article 14 ECHR, read in conjunction with Article 11 thereof.

73 That would be tantamount to making the exercise of the staff representative's trade union duties subject to the interests of the service as assessed by the immediate superior. However, it is for the latter to organise work within his or her department, taking into consideration the fact that a member of his or her team has trade union duties and must necessarily have the time necessary for that purpose.

74 UG adds that, in so far as her absences in connection with the exercise of her trade union duties were included in her 'calendar planning', to which her immediate superior had access, the General Court was wrong to hold, in paragraph 175 of the judgment under appeal, that the decision at issue could, without infringing the minimum requirements of Article 7 of Directive 2002/14, be based on the ground that UG failed to comply with the obligation to inform her superiors in good time, prior to the trade union meetings, of her participation in those meetings, since such a ground is based on UG's failure to comply with the conditions of the organisation of the service necessary for the exercise of her mandate.

75 That interpretation adopted by the General Court is contrary, first, to the minimum requirements laid down in Article 7 of Directive 2002/14 and, second, to Article 12 of the Charter.

76 The Commission replies that, by the second ground of her appeal, UG disputes the facts as established by the General Court without, however, alleging or demonstrating any distortion of the facts. That ground of appeal is therefore inadmissible and, in any event, unfounded.

2. Findings of the Court

(a) Admissibility

77 As regards the plea of inadmissibility raised by the Commission in the context of the second ground of appeal, it suffices to note that, by that ground of appeal, UG complains, in essence, that the General Court erred in law. In that regard, UG repeatedly sets out the contested elements of the judgment under appeal and the legal arguments specifically advanced in support of the application to have that judgment set aside.

78 In those circumstances, in accordance with the case-law referred to in paragraph 51 above, it cannot be held that the second ground of appeal is inadmissible.

(b) Substance

79 In paragraph 164 of the judgment under appeal, the General Court held that it was not apparent from either the statement of reasons for the decision at issue or the documents in the file that that decision was based solely on UG's status as a member of the Staff Committees, irrespective of the exercise of her functions as staff representative or, more broadly, of her trade union activities. In paragraph 165 of that judgment, the General Court added that it is not apparent from that decision that the AECCE considered that the way in which UG performed, on the date of adoption of that decision, her duties as a staff representative or, more broadly, her trade union activities constituted conduct such as to justify the termination of her contract on the ground of incompetence.

80 With regard to an official or servant who is seconded to a trade union for 50% of working time, the General Court held, in paragraph 173 of the judgment under appeal, that Article 60 of the Staff Regulations requires such an official or servant to obtain prior permission from his or her immediate superior in order to be absent from the service and to participate in meetings to which he or she is invited under his or her trade union mandate or as a staff representative. That requirement to obtain prior permission is subject to derogation only in the event of sickness or accident and not in the event of participation in staff union representation or in meetings of a representative body.

81 In paragraph 175 of the judgment under appeal, the General Court concluded that the decision at issue could, without failing to comply with the minimum requirements of Article 7 of Directive 2002/14, be based on the ground alleging breach by UG of the obligation to inform her superiors in good time, before the meetings of the Staff Committees of which she was a member, that she would be taking part in those meetings, since such a ground is not based on the exercise of her duties as staff representative, but on the applicant's failure to comply with the conditions of the organisation of the service necessary for the exercise of her mandate.

82 In so far as, by the second ground of appeal, UG challenges the interpretation of Article 60 of the Staff Regulations adopted by the General Court, it should be borne in mind that, under the first sentence of that article, except in the case of sickness or accident, an official may not be absent without prior permission from his or her immediate superior.

83 First, the General Court refers, in its reasoning, to that article, which concerns the requirement of permission from the immediate superior and not the duty to inform the latter of activities that result in the official's absence. Second, in paragraph 174 of the judgment under appeal, the General Court refers to Article 7 of Commission Decision C(2011) 3588 final of 27 May 2011 on human and financial resources allocated to the Staff Committee of the Commission, according to which any absence for the purpose of carrying out trade union activities must first be notified in writing by the person concerned to his or her superiors in good time.

84 In order to examine whether the approach adopted in the judgment under appeal is consistent with EU law, it should be recalled that, under Article 24b of the Staff Regulations, officials are entitled to exercise the right of association and may, inter alia, be members of trade unions or staff associations of European officials.

85 Furthermore, as is apparent from the sixth paragraph of Article 1 of Annex II to the Staff Regulations, first, the duties performed by the members of the Staff Committee and by the officials appointed by that committee to a body set up under the Staff Regulations or by the

institution are to be regarded as forming part of the services which they are required to perform in their institution and, secondly, the fact of performing such duties shall in no way be prejudicial to the person concerned.

86 In the present case, the reason given in the decision at issue for UG's dismissal was not based on the prohibition on her attending meetings of the Staff Committees, of which she was a member, which could have constituted a breach of her rights under the Staff Regulations. That ground, as confirmed by the General Court in the judgment under appeal, concerned the obligation, which UG failed to fulfil, to inform her superiors in good time, prior to those meetings, of her participation in them.

87 That obligation does not call into question the essence of the rights of officials and other servants provided for by those regulations.

88 Since UG's arguments raised in the context of the second ground of appeal are not justified, that ground of appeal must be rejected as unfounded.

C. The third ground of appeal

1. Arguments of the parties

89 The third ground of appeal, alleging manifest errors of assessment, is divided, in essence, into five parts.

90 By the first part, UG claims, first, that, by holding, in paragraphs 187 to 190 of the judgment under appeal, that, with regard to the termination of a contract of indefinite duration of a member of the temporary or contract staff, the AECCE has a wide discretion and that an error may be classified as 'manifest' only when it can be readily detected, the General Court undermined the effectiveness of the right of access to justice.

91 It follows from that assessment by the General Court that the presumption of legality attaching to Commission measures is irrebuttable, despite the requirement of equality of arms.

92 UG also complains that the General Court did not grant her request to adopt the necessary measures of inquiry.

93 She submits, in that regard, factual elements supporting, in her view, the conclusion that the reason for the decision at issue was the taking of parental leave and the performance of her trade union duties.

94 Second, as regards the duration of the General Court's handling of the present case, UG observes that one year elapsed between the end of the written or oral part of the procedure and the delivery of the judgment under appeal, without any measure of organisation of procedure being adopted during that procedure. The total duration of all the proceedings at issue is more than six years, which constitutes an infringement of the right to be heard by a tribunal within a reasonable time, enshrined in the ECHR and the Charter, and of the rights of the defence.

95 UG therefore invites the Court of Justice to draw the appropriate conclusions from those infringements, in particular by reversing the burden of proving the unlawful nature of the decision at issue.

96 In the second part of the third ground of appeal, UG submits that her right to be heard, provided for in Article 51(2) of the Staff Regulations, has been infringed.

97 In the present case, UG had only eight days in which to send her comments to the AECCE before the decision at issue was adopted, which did not make it possible to ensure her rights of defence.

98 In that regard, the General Court adopted, in paragraphs 68 to 70 of the judgment under appeal, a purely formal approach to the right to be heard by not requiring the AECCE to conduct a proper investigation of the matter.

99 In addition, UG complains that the General Court 'reversed' the burden of proof by holding that it was for UG to provide additional evidence, without having been requested to do so by the AECCE. In view of the detailed nature of the letter of 30 September 2016, referred to in paragraph 20 above, UG considers that it was for the AECCE to seek the relevant supporting documents.

100 By the third part of the third ground of appeal, UG claims that, in paragraph 36 of the judgment under appeal, the General Court adopted an overly restrictive interpretation of the case-law of the Court of Justice by holding that the statement of reasons for acts of the institutions of the European Union need not specify all the relevant matters of fact and law, since the question whether the statement of reasons for an act meets the requirements of Article 296 TFEU must be assessed with regard not only to its wording but also to its context and to all the legal rules governing the matter in question.

101 It does not follow from the case-law of the Court of Justice that those institutions are not required to specify the relevant matters of fact or law in the statement of reasons for their acts, but only that the requirement of precision must be formulated in the light of the nature of the contested act.

102 However, in the judgment under appeal, the General Court did not determine the level of detail required with regard to the statement of reasons for a dismissal decision, having regard to the nature of that decision, its impact on the professional situation of the addressee and her ability to challenge the reasons for the dismissal.

103 The Commission cannot put forward vague and unsubstantiated grounds in support of its dismissal decision, having regard to the right to an effective remedy and the protection against unjustified dismissal provided for in Article 30 of the Charter, read in conjunction with Article 47 thereof.

104 In that regard, UG submits that, in the decision at issue, the AECCE merely set out a very large number of criticisms formulated vaguely, unsupported by specific and concrete facts.

105 Thus, the General Court was wrong to hold, in paragraph 39 of the judgment under appeal, that the AECCE had referred to around 20 detailed circumstances in the letter of 8 September 2016, which related to UG's conduct between 2013 and 2016.

106 No specific example of UG's conduct nor any date of such conduct is apparent from that letter.

107 In the fourth part of the third ground of appeal, UG refers to paragraph 241 of the judgment under appeal, from which it is apparent that the General Court rejected the plea alleging a manifest error of assessment in so far as it concerned the late transmission of medical certificates for the absences of 7 May and 16 June 2014 and an alleged unjustified absence on 18 June 2014.

108 According to UG, in order to ascertain whether her rights of defence had been respected, it was for the General Court to examine whether the Commission could validly rely on the late transmission of medical certificates and unjustified absences more than two years after they had occurred, especially since those events were not mentioned in UG's appraisal report drawn up for 2014.

109 As regards the lateness of UG's transmission of medical certificates, UG claims that it was for the Commission to state that ground. In that regard, the General Court reversed, in paragraphs 246 and 253 of the judgment under appeal, the burden of proof by placing UG in a situation where the proof requested is virtually impossible or extremely difficult to adduce.

110 By the fifth part of the third ground of appeal, UG claims that, by declaring that, in paragraph 265 of the judgment under appeal, she was time-barred from challenging the 2015 appraisal report, the General Court infringed her right to a fair hearing.

111 In so far as the appraisal report for 2014 and the 2015 appraisal report concluded that UG's professional performance was satisfactory, she could not have expected those reports to be relied on by the Commission to justify her dismissal.

112 As regards the appraisal report for 2016, UG states that the dismissal procedure at issue was initiated even before the period for bringing an appeal against that report had expired.

113 UG also challenges paragraph 273 of the judgment under appeal, which refers to her lack of involvement in the working groups of which she was a member.

114 Furthermore, the General Court infringed UG's right to a fair hearing by adopting, in paragraphs 278 to 286 of the judgment under appeal, an irrebuttable reversal of the burden of proof as regards the preparation of the newsletter of the Early Childhood Centre.

115 In that regard, UG was able to prove that the newsletter had been sent on 22 January 2016, whereas the email concerning it did not reach the addressee until 18 July 2016 due to a computer problem.

116 As regards the ground for dismissal based on UG's failure to forward the table of educational activities, UG claims that, at the time of the request to forward that table, her immediate superior was aware of UG's intention to take parental leave for the period from July to September 2016. Therefore, that request was made solely in order to undermine UG.

117 The Commission contends that the third ground of appeal is inadmissible and, in any event, unfounded.

2. Findings of the Court

(a) Admissibility

118 As regards the plea of inadmissibility raised by the Commission in the context of the third ground of appeal, it suffices to note that, by that ground of appeal, UG alleges, in essence, that the General Court erred in law. In that regard, UG repeatedly sets out the contested elements of the judgment under appeal and the legal arguments specifically advanced in support of the application to have that judgment set aside.

119 In those circumstances, in accordance with the case-law referred to in paragraph 51 above, it must be held that the third ground of appeal is admissible.

(b) Substance

(1) The first part

120 It should be borne in mind that, in paragraph 187 of that judgment, the General Court held that, as regards the termination of a contract of indefinite duration of a member of the temporary or contract staff, the AECCE has, in accordance with Article 47(c)(i) of the CEOS and subject to compliance with the period of notice provided for in the contract, a wide discretion, and review by the Courts of the European Union must therefore be limited to ascertaining that there has been no manifest error or misuse of powers.

121 Relying on the judgment of 19 July 1955, *Kergall* v *Common Assembly* (1/55, EU:C:1955:9, p. 23), the General Court found, in paragraph 188 of the judgment under appeal, that the appraisal of the professional competence of officials and servants of the institutions of the European Union is primarily a matter for those institutions.

122 In paragraph 189 of the judgment under appeal, the General Court stated that, in that context, an error may be classified as 'manifest' only where it can be readily detected, in the light of the criteria to which the legislature intended the administration's exercise of its discretion to be subject. Thus, a plea based on manifest error must be rejected if, despite the evidence produced by the applicant, the appraisal in question can still be regarded as justified and coherent.

123 In paragraph 190 of that judgment, the General Court added, referring to the judgment of 10 September 2019, *HTTS* v *Council* (C-123/18 P, EU:C:2019:694, paragraph 100 and the case-law cited), that acts of the EU institutions are in principle presumed to be lawful and accordingly produce legal effects until such time as they are withdrawn, annulled in an action for annulment or declared invalid following a reference for a preliminary ruling or a plea of illegality.

124 In that regard, first, as has been recalled in paragraphs 61 and 62 above, the General Court found, in the judgment under appeal, that the decision at issue was unlawful on the ground that the AECCE could not rely on the dates of parental leave requested as constituting one of the grounds for dismissal for incompetence, while considering that the overall finding of her incompetence was based on several grounds, which were distinct from that ground. Accordingly, the General Court concluded that that illegality could not, in itself, entail the annulment of the decision at issue.

125 Secondly, although, in paragraphs 218, 340 and 350 of the judgment under appeal, the General Court found that the decision at issue was vitiated by several manifest errors of assessment, it nevertheless held, in paragraphs 360 and 361 of that judgment, that that decision contains several grounds which have not been demonstrated to be unlawful and which are sufficiently important to support the overall finding of incompetence made by the AECCE.

126 In those circumstances, it must be held that UG's argument that, in essence, the General Court erred in law in holding that the AECCE had a broad discretion, first, is based on a misreading of the judgment under appeal given that the General Court acknowledged the existence of manifest errors of assessment in the adoption of the decision at issue and, second, cannot call into question the General Court's reasoning in so far as UG does not demonstrate the existence of other manifest errors of assessment vitiating that decision which should have led to its annulment.

127 As regards the fact that UG criticises the General Court for not having granted her request to adopt the necessary measures of inquiry, it should be recalled that, in accordance with settled case-law as regards the assessment, by the court of first instance, of applications made by a party for measures of organisation of procedure or measures of inquiry, the General Court is the sole judge of any need to supplement the information available to it in respect of the cases before it. It is therefore for the General Court alone to assess the relevance of an application for a measure of organisation of procedure to the subject matter of the proceedings and the need to proceed therewith (judgment of 12 November 2020, *Fleig* v *EEAS*, C-446/19 P, EU:C:2020:918, paragraph 53 and the case-law cited).

128 Whether or not the evidence before it is sufficient is a matter to be appraised by it alone and is not subject to review by the Court of Justice on appeal, except where that evidence has been distorted or the substantive inaccuracy of the findings of the General Court is apparent from the documents in the file (judgment of 12 November 2020, *Fleig* v *EEAS*, C-446/19 P, EU:C:2020:918, paragraph 54).

129 In the present case, in so far as the General Court referred, in the judgment under appeal, to numerous items of evidence in the file before it, and since UG does not specify, in the context of the first part of the third ground of appeal, how the General Court distorted that evidence or why it's findings are materially incorrect, that argument must be rejected as inadmissible.

130 As regards the length of the proceedings before the Courts of the European Union, it should be recalled that although failure to adjudicate within a reasonable time may give rise to a claim for damages by means of an action brought by the applicant against the European Union under the combined provisions of Article 268 TFEU and the second paragraph of Article 340 TFEU, it cannot, however, lead to the setting aside of the judgment under appeal in the absence of evidence that the length of the proceedings had an effect on the outcome of the proceedings (order of 29 September 2022, *CX* v *Commission*, C-71/22 P, EU:C:2022:745, paragraph 76 and the case-law cited).

131 Consequently, in the absence of any evidence capable of establishing that the length of the proceedings had an effect on the outcome of the proceedings in question, the complaint alleging breach of the obligation to adjudicate within a reasonable time cannot lead to the setting aside of the judgment under appeal and must therefore be rejected as inadmissible.

132 Therefore, the first part of the third ground of appeal must be rejected as in part unfounded and in part inadmissible.

(2) The second part

133 In paragraph 68 of the judgment under appeal, the General Court held that, admittedly, the period of eight working days granted to UG to submit observations on the letter of 8 September 2016 might seem brief in the light of the seriousness of the consequences that the termination of her contract would have on her personal situation. The General Court noted, however, that UG had commented on the grounds of the decision at issue and that the AECCE had taken into account her observations, as evidenced in the statement of reasons for the decision at issue.

134 In paragraph 69 of the judgment under appeal, the General Court recalled that, although respect for the right to be heard requires that the EU institutions allow the person who is the subject of a measure adversely affecting him or her to make his or her point of view known effectively, those institutions cannot, however, be required to adhere to that view.

135 In paragraph 70 of the judgment under appeal, the General Court added that UG complained that the AECCE did not ask her, after receiving her written observations of 30 September 2016, to produce additional documents. That court found, first, that it was open to UG to produce such documents between 30 September and 17 October 2016, the date on which the decision at issue was adopted, and, second, that UG did not indicate either the nature or the purpose of those supplementary documents of which the AECCE had no knowledge, so that it had not been established that the production of those documents would have been capable of having a decisive influence on the content of the decision at issue.

136 In paragraph 71 of the judgment under appeal, the General Court concluded that UG had been afforded the opportunity effectively to make known her views on the truth and relevance of the facts and circumstances on the basis of which the AECCE adopted that decision.

137 First, the complaint alleging infringement of the rights of the defence is not supported by arguments capable of demonstrating that the General Court erred in law and, second, it does not appear that the conclusion set out by the General Court in paragraph 71 of the judgment under appeal constitutes a distortion of the facts examined by the General Court (see, by analogy, judgment of 6 October 2022, *KN* v *EESC*, C-673/21 P, EU:C:2022:759, paragraph 103).

138 Consequently, the second part of the third ground of appeal must be rejected as unfounded.

(3) The third part

139 In paragraph 36 of the judgment under appeal, the General Court recalled that, according to the settled case-law of the Court of Justice, the statement of reasons for acts of the EU institutions, which is also required under Article 296 TFEU and Article 41(2)(c) of the Charter, must be appropriate to the measure at issue and must disclose clearly and unequivocally the reasoning followed by the institution which adopted that measure in such a way as to enable the persons concerned to ascertain the reasons for it and to enable the competent court to review its legality. The requirements to be satisfied by the statement of reasons depend on all the circumstances of each case, in particular the content of the measure in question, the nature of the reasons given and the interest that the addressees of the measure, or other parties to whom it is of direct and individual concern, may have in obtaining explanations. It is not necessary for the reasoning to go into all the relevant facts and points of law, since the question whether the statement of reasons meets the requirements of Article 296 TFEU must be assessed with regard not only to its

wording but also to its context and to all the legal rules governing the matter in question (judgment of 11 June 2020, *Commission* v *Di Bernardo*, C-114/19 P, EU:C:2020:457, paragraphs 29 and 51 and the case-law cited).

140 After examining, in paragraphs 38 to 47 of the judgment under appeal, the various facts taken into account in the decision at issue and the reasoning used therein, the General Court concluded, in paragraph 48 of that judgment, that that decision, which was adopted in a context known to UG, set out both the legal considerations and a sufficient number of facts which were of decisive importance in the scheme of that decision and which enabled UG to assess its validity and legality.

141 In that regard, it should be noted that, contrary to UG's assertions, the General Court correctly set out the requirements, as laid down in the case-law of the Court of Justice, in particular those referred to in paragraph 139 above, concerning the statement of reasons for acts of the EU institutions.

142 Therefore, UG's argument relating to the level of detail of the statement of reasons for acts of the EU institutions must be rejected as unfounded.

143 As regards UG's arguments put forward in the third part of the third ground of appeal, concerning the examination of the substance of the statement of reasons for the decision at issue, it suffices to note that, by those arguments, UG is in fact asking the Court of Justice to re-examine the factual assessment made by the General Court and must, as such, be rejected as inadmissible.

144 Accordingly, the third part of the third ground of appeal must be rejected as in part unfounded and in part inadmissible.

(4) The fourth part

145 The fourth part of the third ground of appeal concerns the examination by the General Court of the ground of the decision at issue relating to the allegedly irregular absences of UG.

146 In paragraph 240 of the judgment under appeal, the General Court found that, although UG claims to have always provided a medical certificate in the event of absence on health grounds, she does not indicate the reason for her absence from the service on 18 June 2014 and does not refer to any document in the file capable of justifying that absence.

147 The General Court concluded, in paragraph 241 of that judgment, that UG's argument is not capable of calling into question the decision finding that UG's absence on 18 June 2014 was irregular, with the result that the complaint set out in the application, in so far as it is directed against the ground on point (d) on page 2 of the letter of 8 September 2016, must be rejected as unfounded.

148 As regards paragraphs 246 and 253 of the judgment under appeal, to which UG refers in her appeal, it suffices to note that, in paragraph 244 of that judgment, the General Court found that UG had not lodged a complaint, in accordance with Article 91(2) of the Staff Regulations, against the decision of 1 June 2016 by which the AECCE found that her absences of 30 and 31 May 2016 were unjustified.

149 In paragraph 245 of the judgment under appeal, the General Court adds that UG does not rely on a material new fact that would justify a re-examination of the legality of that decision.

150 Therefore, the General Court concluded, in paragraph 246 of the judgment under appeal, that UG's argument seeking to challenge that decision indirectly was inadmissible in so far as it sought to call into question an act that had become final.

151 As regards paragraph 253 of the judgment under appeal, which relates to the ground of the decision at issue based on her allegedly unjustified absences on 7 May and 16 June 2014, it should be noted that, in that paragraph, the General Court held that UG did not establish or even claim to have provided the certificates necessary to regularise her administrative situation within a short period in the light of the time limit imposed on her.

152 By the arguments raised in the fourth part of the third ground of appeal, UG is in fact seeking a re-examination by the Court of Justice of the assessments made by the General Court in the context of the paragraphs referred to in paragraphs 146 to 151 above.

153 It follows that that part must be dismissed as inadmissible.

(5) The fifth part

154 In the context of the examination of the plea of inadmissibility raised by the Commission, the General Court found, in paragraph 263 of the judgment under appeal, that, by her arguments developed in the context of the second to fifth complaints of the third part of the fourth plea, alleging a manifest error of assessment and errors of fact vitiating the ground relating to the appellant's involvement in her work, as set out before the General Court, UG sought to call into question the content of the qualitative appraisal relating to the appellant's efficiency, which corresponds to point 3.1 of the 2015 appraisal report, and, therefore, of the 2015 appraisal report.

155 In paragraph 264 of that judgment, however, the General Court found that UG had received notification of the 2015 appraisal report and that she had not challenged that report within the time limits laid down in Articles 90 and 91 of the Staff Regulations, with the result that both that report and the appraisals contained therein had become final.

156 In paragraph 265 of the judgment under appeal, the General Court added that UG had not pleaded the existence of any material new element in order to establish that she was not precluded from challenging the 2015 appraisal report.

157 In paragraph 266 of the judgment under appeal, the General Court concluded that, in those circumstances, UG could not challenge the 2015 appraisal report as an incidental question in the action brought against the decision at issue, in respect of which that report played a preparatory role.

158 In that regard, it must be held that the General Court was right to hold that the 2015 appraisal report became final in the absence of an appeal brought within the time limits laid down in Articles 90 and 91 of the Staff Regulations and that UG is therefore not justified in claiming that the General Court infringed the procedural rules and distorted the case file by finding that that report could not be challenged as an incidental question in the action before it (see, by analogy, judgment of 24 June 2021, *WD* v *EFSA*, C-167/20 P, EU:C:2021:516, paragraphs 39 and 40).

159 As regards paragraphs 278 to 286 of the judgment under appeal, which UG criticises for establishing an irrebuttable reversal of the burden of proof, it suffices to recall that, in those paragraphs, the General Court examined the facts put forward by UG in her application, by which UG disputed the factual assessments made by the Commission in the decision at issue.

160 In paragraph 286 of the judgment under appeal, the General Court concluded that UG had not adduced any evidence capable of casting doubt on the evidence submitted by the Commission, according to which she had sent the members of the '*Journal du CPE*' working group the draft Christmas 2015 newsletter, for validation, only on 18 July 2016.

161 UG's arguments developed in that regard in the context of the fifth part of the third ground of appeal constitute, in reality, a challenge to the findings of fact made by the General Court and must, as such, be rejected as inadmissible.

162 The same is true of the other arguments put forward by UG in the context of that part of the third ground of appeal.

163 Accordingly, the fifth part of the third ground of appeal must be rejected as in part unfounded and in part inadmissible and, consequently, the third ground of appeal must be rejected in its entirety.

D. The fourth ground of appeal law

1. Arguments of the parties

164 By its fourth ground of appeal, alleging infringement of the principle of proportionality, UG submits, in essence, that, for the purposes of examining the proportionality of her dismissal, the General Court should have taken account of the fact that that dismissal was motivated by UG's parental leave, that she held a trade union position and that she had not been subject to any penalty, the professional failings relied on in the decision at issue being minor.

165 The Commission contends that the fourth ground of appeal must be rejected as unfounded. The Commission adds that this ground of appeal is also inadmissible in so far as it seeks a mere reassessment of the arguments already presented before the General Court.

2. Findings of the Court

166 It should be borne in mind that, in paragraphs 351 to 381 of the judgment under appeal, the General Court examined the decision at issue and concluded that, by adopting it, the Commission had not committed a manifest error of assessment.

167 That being so, the General Court held, in paragraphs 385 and 386 of that judgment, that, since the decision at issue was not vitiated by any manifest error of assessment, it was entitled to terminate UG's contract of indefinite duration and that, therefore, there had been no breach of the principle of proportionality.

168 In the context of the fourth ground of her appeal, UG does not put forward any arguments capable of calling into question that legal assessment of the General Court.

169 In those circumstances, that ground of appeal must be rejected as unfounded.

E. Claim for damages

1. Arguments of the parties

170 UG maintains that she had concluded an amicable agreement with the Commission regarding compensation for material damage. In the event that that agreement were to lapse as a result of the judgment on appeal, UG requests that the sum of EUR 68 000 be awarded to her *ex aequo et bono* in compensation for that damage.

171 UG also claims that she should be awarded a sum of EUR 40 000 in compensation for non-material damage. That sum is appropriate in the light of the psychological suffering endured as a result of her dismissal, which is unlawful.

172 In that regard, account should also be taken of UG's precarious situation and over-indebtedness as a result of her dismissal.

173 The Commission disputes UG's arguments.

2. Findings of the Court

174 In the judgment under appeal, the General Court found that, in support of her claim for compensation for material and non-material damage, UG did not rely on heads of illegality that differed from those that she had put forward in support of her claim for annulment of the decision at issue. In those circumstances, and given that the claim for annulment had been rejected as unfounded, the General Court held that the claim for damages should also be dismissed as unfounded.

175 In that regard, in so far as all the grounds of appeal relied on have been rejected and, consequently, the judgment under appeal has not been set aside, UG's arguments seeking compensation for the damage suffered must also be rejected.

176 That being the case, the appeal must be dismissed in its entirety.

Costs

177 Under Article 138(1) of the Rules of Procedure of the Court of Justice, which applies to appeal proceedings by virtue of Article 184(1) thereof, the unsuccessful party is to be ordered to pay the costs if they have been applied for in the successful party's pleadings.

178 Since the Commission has applied for costs to be awarded against UG and the latter has been unsuccessful, the appellant must be ordered to bear her own costs and to pay those incurred by the Commission.

On those grounds, the Court (Seventh Chamber) hereby:

1. Dismisses the appeal;

2. Orders UG to bear her own costs and to pay those incurred by the European Commission.

[Signatures]