ORDER OF THE CIVIL SERVICE TRIBUNAL
(Second Chamber)
10 July 2009 *

(Civil service — Competitions — Compliance with a judgment — Admissibility)

In Case F-15/09,

ACTION under Articles 236 EC and 152 EA,

Valentina Hristova, residing in Pavlikeni (Bulgaria), represented by G. Kerelov, lawyer,

applicant,

v

Commission of the European Communities,

defendant,

* Language of the case: English.

THE TRIBUNAL (Second Chamber),

composed of H. Kanninen (Rapporteur), President, I. Boruta and S. Van Raepenbusch, Judges,

Registrar: W. Hakenberg,

makes the following

Order

1 By application lodged at the Registry of the Tribunal on 4 March 2009, Mrs Hristova requests the Tribunal to order proper measures to ensure compliance with the judgment of the Tribunal of 25 November 2008 (Case F-50/07 *Hristova* v *Commission* [2009] ECR-SC I-A-1-377 and II-A-1-2071, ('the judgment of 25 November 2008').

Background to the case

2 The applicant applied for open competition EPSO/AST/14/06, to constitute a reserve of assistants (AST 1) with Bulgarian citizenship in the secretarial field ('the contested competition').

3 Section A.II.(1) of the notice of competition, published in the *Official Journal of the European Union* of 21 June 2006 (OJ 2006 C 145 A, p. 22), ('the notice of competition') reads:

'You must

(i) have completed a course of post-secondary education and obtained the relevant diploma, in a field relevant to the duties described in section A.I. [of the notice of competition].

You must have obtained your qualification by 30 September 2006 at the latest;

or

(ii) have a level of secondary education attested by a diploma giving access to higher education, followed by at least three years' full-time professional experience relevant to the duties described in section A.I. [of the notice of competition].

The three years' professional experience must have been obtained by 30 September 2006 at the latest.'

4 By letter of 3 April 2007, the selection board in the contested competition informed the applicant that her application had not been accepted. That letter stated that, contrary to the conditions laid down in the notice of competition and on the basis of the information provided in her application form, the applicant did not have, by 30 September 2006 at the latest, at least three years' full-time professional experience in a field relevant to the duties described in the notice of competition after having obtained her secondary education diploma.

5 By application lodged at the Registry of the Tribunal by electronic means on 17 December 2007 (the original being lodged on 24 December 2007), the applicant brought an action, seeking, first, annulment of the contested decision of the selection board refusing to admit her to the tests in that competition and, second, an order that the Commission of the European Communities pay

damages to make good the loss allegedly suffered. The application was registered at the Registry of the Tribunal under number F-50/07.

6 By judgment of 25 November 2008, the Tribunal held that the selection board in the contested competition had not provided any explanation concerning the applicant's failure to meet the condition laid down in section A.II.(1)(i) of the notice of competition, enabling the applicant to assess the merits of the rejection of her application and the Tribunal to exercise its power of judicial review. It therefore annulled the decision of the selection board refusing to admit Mrs Hristova to the tests in that competition.

Procedure and forms of order sought

7 By letter of 16 March 2009, the Registry of the Tribunal informed the applicant that her application lodged in the present action did not comply with the provisions of the Rules of Procedure concerning production of copies of the pleadings and requested her to put her application in order. The applicant did not comply with that request.

8 The applicant claims that the Tribunal should order proper measures to ensure compliance with the judgment of 25 November 2008.

Law

9 Article 76 of the Rules of Procedure, which were adopted on 25 July 2007 (OJ 2007 L 225, p. 1) and entered into force on 1 November 2007, provides that where the action is, in whole or in part, manifestly inadmissible, the Tribunal may, without taking further steps in the proceedings, give a decision by way of reasoned order.

10 In the present case the Tribunal considers itself to be sufficiently informed by the contents of the case-file as regards the admissibility of the action, and finds that there is no call to continue the proceedings.

11 Under the terms of Article 91(1) of the Staff Regulations of Officials of the European Communities ('the Staff Regulations'), the Tribunal is vested with jurisdiction in any dispute between the Communities and any person to whom the Staff Regulations apply regarding the legality of an act adversely affecting such person.

12 It therefore follows from Article 91(1) of the Staff Regulations that the action must be directed against an act adversely affecting the person concerned, which, according to case-law, means an act that directly and immediately affects that person's legal situation (order of the Tribunal of 6 December 2006 in Case F-37/06 *Strack* v *Commission* [2006] ECR-SC I-A-1-145 and II-A-1-559, paragraph 28).

13 In the present case, although the applicant attached to her application the letter from the European Personnel Selection Office (EPSO) of 12 December 2008 concerning compliance with the judgment of 25 November 2008, her action is not directed against that letter. Nor is she seeking annulment of a decision contained in that letter. The applicant is merely requesting the Tribunal to order proper measures to ensure compliance with the judgment of 25 November 2008.

14 It should be pointed out, first, that Article 233 EC provides for a sharing of powers between the judicial and executive authorities, by virtue of which it is for the institution that issued the act annulled to determine what measures are required to comply with the judgment pronouncing the annulment (see, to that effect, Case T-84/91 *Meskens* v *Parliament* [1992] ECR II-2335, paragraph 73, and Joined Cases F-44/06 and F-94/06 *C and F* v *Commission* [2007] ECR-SC I-A-1-95 and II-A-1-537, paragraph 33).

15 Secondly, it is to be noted that, in the context of an action brought under Article 91 of the Staff Regulations, the Community court may not make declarations of principle or findings nor give directions to a Community institution without encroaching upon the powers of the executive (see, to that effect, Case T-156/89 *Valverde Mordt* v *Court of Justice* [1991] ECR II-407, paragraph 150; Case T-583/93 *P* v *Commission* [1995] ECR-SC I-A-137 and II-433, paragraphs 17 and 18; and Case F-4/08 *Hambura* v *Parliament* [2009] ECR-SC I-A-1-65 and II-A-1-343, paragraph 32). That principle renders inadmissible heads of claim seeking an order requiring a Community institution to adopt the measures necessary for the enforcement of a judgment by which a decision has been annulled (*Valverde Mordt* v *Court of Justice*, paragraph 150).

16 Even if the applicant's action were interpreted as being directed against EPSO's letter of 12 December 2008, it should be pointed out that, under Article 35(1)(e) of the Rules of Procedure, the application must state, inter alia, the pleas in law and the arguments of fact and law relied on. According to case-law, that information must be sufficiently clear and precise to enable the defendant to prepare its defence and the Tribunal to rule on the application, if necessary, without any further information. In order to guarantee legal certainty and sound administration of justice, it is necessary, for an action to be admissible, that the basic legal and factual particulars relied on be indicated, at least in

summary form, coherently and intelligibly in the application itself (orders of the Court of First Instance of 28 April 1993 in Case T-85/92 *De Hoe* v *Commission* [1993] ECR II-523, paragraph 20, and of 21 May 1999 in Case T-154/98 *Asia Motor France and Others* v *Commission* [1999] ECR II-1703, paragraph 42, and judgment in Case T-277/97 *Ismeri Europa* v *Court of Auditors* [1999] ECR II-1825, paragraph 29).

17 In the present case, the application manifestly fails to meet the minimum conditions of clarity and precision that would enable the defendant to prepare its defence and the Tribunal to rule on the application. The applicant merely sets out, in three paragraphs, first, the position adopted by the Tribunal in the judgment of 25 November 2008, secondly, the assertion that EPSO is refusing to comply with that judgment and, thirdly, a request that the Tribunal should order proper measures to ensure compliance with the judgment of 25 November 2008.

18 In view of all the foregoing, the application must be dismissed in its entirety as manifestly inadmissible.

Costs

19 Since this order was adopted before the application was served on the other party to the proceedings and before the latter incurred any costs, it is sufficient to decide that the applicant shall bear her own costs, in accordance with Article 86 of the Rules of Procedure.

On those grounds,

THE TRIBUNAL (Second Chamber)

hereby:

1. Dismisses the application as manifestly inadmissible;

2. Orders Mrs Hristova to pay her own costs.

Luxembourg, 10 July 2009.

W. Hakenberg
Registrar

H. Kanninen
President