Reports of Cases

ORDER OF THE GENERAL COURT (Appeal Chamber)

7 October 2014*

(Appeal — Civil service — Contract staff — Non-renewal of contract — Article 76 of the Rules of Procedure of the European Union Civil Service Tribunal)

In Case T-59/13 P,

APPEAL against the order of the European Union Civil Service Tribunal (First Chamber) of 3 December 2012 in *BT* v *Commission* (F-45/12, ECR-SC, EU:F:2012:168), seeking to have that order set aside,

BT, residing in Bucharest (Romania), represented initially by N. Visan, and subsequently by G. Coca, lawyers,

appellant,

the other party to the proceedings being

European Commission, represented by J. Currall and A.-C. Simon, acting as Agents,

defendant at first instance,

THE GENERAL COURT (Appeal Chamber),

composed of M. Jaeger, President, H. Kanninen (Rapporteur) and D. Gratsias, Judges,

Registrar: E. Coulon,

makes the following

Order

1 By her appeal brought pursuant to Article 9 of Annex I to the Statute of the Court of Justice, the appellant, BT, seeks to have set aside the order of the European Union Civil Service Tribunal (First Chamber) of 3 December 2012, in *BT* v *Commission* (F-45/12, ECR-SC, EU:F:2012:168; 'the order under appeal'), by which the Tribunal dismissed her action for annulment of the decision of the European Commission not to renew her contract as a member of the contract staff.

* Language of the case: English.

Factual background to the dispute

2 The facts are set out in paragraphs 2 to 7 of the order under appeal as follows:

> ‘2 The [appellant] was recruited by the Commission on the basis of a contract as a member of the contract staff within the meaning of Article 3a of the Conditions of Employment of Other Servants of the European Union… for a duration of three years with effect from 10 November 2008. Under that contract, signed on 9 October 2008 by the Commission and on 10 November 2008 by the [appellant], she was to carry out executive tasks, drafting, accountancy and equivalent technical tasks, within the Commission delegation to the Republic of Moldova …
>
> …
>
> 4 On 27 July 2011, the Head of Delegation informed the [appellant] orally that her contract would not be renewed.
>
> 5 By note of 6 September 2011, the Director of the Directorate for “Resources in Headquarters and in Delegations” in the Commission Directorate-General responsible for “Development and Cooperation — EuropeAid” reminded the [appellant] that her contract was due to expire on 9 November 2011 and advised her to contact the relevant department to obtain the information needed in connection with the formalities for her departure.
>
> 6 By note of 20 September 2011, the [appellant] lodged a complaint against the … decision [not to renew her contract as a member of the contract staff] for the purposes of Article 90(2) of the Staff Regulations of Officials of the European Union …
>
> 7 By decision of 16 January 2012, received by the [appellant] on 17 January 2012, the authority authorised to conclude contracts of employment rejected the complaint.’

Procedure at first instance and order under appeal

3 By application lodged at the Registry of the Civil Service Tribunal on 10 April 2012, the appellant brought an action, which was registered as Case F-45/12, inter alia for annulment of the Commission’s decision not to renew her contract as a member of the contract staff (‘the contested decision’).

4 In its defence, lodged at the Registry of the Civil Service Tribunal on 12 July 2012, the Commission essentially contended that the action should be dismissed.

5 By the order under appeal, the Civil Service Tribunal found inter alia that the appellant’s claim that the contested decision should be annulled did not meet the requirements of Article 35(1)(c) of the Rules of Procedure of the European Union Civil Service Tribunal and should therefore be rejected as manifestly inadmissible.

6 In the first place, the Civil Service Tribunal stated that ‘while the part of the application entitled “Statement of facts giving rise to the action” contain[ed] a long description of the factual circumstances which [gave] rise to the present action, no plea in law emerge[d] from this with sufficient clarity as to be readily and accurately identifiable by the defendant or by the judicial authority before which the action ha[d] been brought’. In the second place, it stated that ‘in the part of the application entitled “Law” and in the “summary” of that application, the [appellant] merely claim[ed], without adequately substantiating her submissions, that the contested decision infringed the fourth paragraph of Article 263 TFEU, Article 268 TFEU and the second paragraph of Article 340 TFEU’. The Civil Service Tribunal added that ‘although, in order to demonstrate the soundness of her

arguments, the [appellant] also refer[ed] to the annexes to the application, the [Tribunal] cannot substitute its own assessment for that of the [appellant]; nor is it for the [Tribunal] to seek out and identify, in the annexes, the pleas on which it might consider the action to be based, since the annexes have a purely evidential and instrumental function'.

The appeal

Procedure and forms of order sought

7 By document lodged at the Registry of the General Court on 30 January 2013, the appellant brought the present appeal.

8 By letter lodged at the Court Registry on 26 February 2013, the appellant confirmed her intention to preserve the anonymity given to her at first instance, which the President of the Appeals Chamber granted by decision of 21 March 2013.

9 By fax of 6 June 2013, the appellant sought permission to lodge a reply. However, she did not, in accordance with Article 43(6) of the Rules of Procedure of the General Court lodge the signed original of the application within 10 days of receipt of the fax at the Court Registry. Therefore, by letter of 24 July 2013 the Court Registry informed the parties that the written procedure had closed.

10 On 29 October 2013 the appellant informed the Court Registry of the change of her representative.

11 By letter lodged at the Court Registry on 22 November 2013, the appellant's new representative sought permission to lodge a reply claiming the existence of exceptional circumstances. By decision of 19 December 2013, the President of the Appeal Chamber dismissed that application.

12 The appellant claims that the Court should:

— set aside the order under appeal;

— review of its own motion any infringement by the Civil Service Tribunal of the applicable rules of law;

— 're-judge the case' and uphold her action at first instance;

— order the Commission to pay the costs.

13 The Commission, which submits that the appeal is manifestly unfounded, contends that the Court should:

— dismiss the appeal;

— order the appellant to pay the costs.

Law

14 Pursuant to Article 145 of its Rules of Procedure, where the appeal is clearly inadmissible or clearly unfounded, the Court may at any time dismiss it by reasoned order. In this instance, the Court considers that it has sufficient information from the documents in the file and has decided, pursuant to that article, to give a ruling without taking further steps in the proceedings.

The claim that the order under appeal should be set aside

15 In support of the appeal, the appellant relies on eight grounds of appeal. The first ground alleges infringement of the 'principle of the active role' of the court. The second ground alleges infringement of Article 6(1) of the European Convention on the Protection of Human Rights and Fundamental Freedoms ('the ECHR'), the first and second paragraphs of Article 47 of the Charter of Fundamental Rights of the European Union, the principle of access to the courts and the principle of the impartiality of the Tribunal, inasmuch as the Civil Service Tribunal dismissed the action as manifestly inadmissible without giving her the opportunity to rectify and complete the application. The third ground alleges infringement of the right to access to the court in that the Civil Service Tribunal refused a second exchange of pleadings. The fourth ground alleges infringement of the right to defend the action before a court and of the principle of the public character of the procedure in that there was no hearing. The fifth ground alleges infringement of the principle of procedural fairness inasmuch as the Civil Service Tribunal did not hear the appellant on the admissibility of the action. The sixth ground alleges infringement of the first paragraph of Article 21 of the Statute of the Court of Justice and Article 44(1)(c) of the Rules of Procedure of the General Court in that the Civil Service Tribunal applied a 'rule of crystallising the legal proceedings' in considering that the application did not contain any pleas in law. The seventh ground alleges essentially a distortion of the facts. By the eighth ground, the appellant challenges the costs order made against her.

16 The second, third, fourth and fifth grounds, which are closely linked, shall be examined together.

– First ground of appeal, alleging infringement of the 'principle of the active role' of the court

17 The appellant criticises the Civil Service Tribunal for having found that the action contained no plea in law while failing to carry out, of its own motion, a review of the legality of the contested decision, which is not limited merely to the pleas relied upon by the appellant.

18 The Commission contests the arguments put forward by the appellant.

19 The Civil Service Tribunal found, in essence, in paragraphs 19 and 20 of the order under appeal, that the action was not based on any plea in law that was readily identifiable by the defendant or the Tribunal.

20 In that regard, it must be noted that, in accordance with paragraph 35(1)(e) of the Rules of Procedure of the Civil Service Tribunal, it is for the applicant to set out in the application 'the pleas in law and the arguments of fact and law relied on'. As is clear from paragraph 15 of the order under appeal, 'those arguments must be sufficiently clear and precise to enable the defendant to prepare its defence and the Court to rule on the action, if necessary without any other supporting information'.

21 The appellant does not call into question the assessment of the Civil Service Tribunal set out in paragraphs 19 and 20 of the order under appeal. The appellant merely states that it was for the Tribunal to examine of its own motion the legality of the contested decision without limiting itself to the pleas relied on by the appellant.

22 Since a European Union court before which an action for annulment has been brought cannot rule *ultra petita*, it is not entitled either to redefine the principal subject-matter of the action or to raise a plea of its own motion except in particular cases where the public interest requires its intervention (see, to that effect, judgments of 18 December 2008 in *Belgium and Commission* v *Genette*, T-90/07 P and T-99/07 P, ECR, EU:T:2008:605, paragraphs 72 to 75, and of 5 October 2009 in *Commission* v *Roodhuijzen*, T-58/08 P, ECR, EU:T:2009:385, paragraph 34).

23 Moreover, while the Civil Service Tribunal may raise a plea involving a matter of public policy of its own motion which a priori was not raised by the parties (see, to that effect, judgments of 2 December 2009 in *Commission* v *Ireland and Others*, C-89/08 P, ECR, EU:C:2009:742, paragraph 35, and of 27 October 2010 in *Reali* v *Commission*, T-65/09 P, ECR-SC, EU:T:2010:454, paragraph 43), it must be stated that, in the present case, the appellant has not established the existence of any pleas involving matters of public policy which the Civil Service Tribunal should have raised of its own motion.

24 In those circumstances, the appellant cannot criticise the Civil Service Tribunal for not having examined of its own motion the legality of the contested decision.

25 The first ground of appeal must therefore be rejected as manifestly unfounded.

– Second, third, fourth and fifth grounds of appeal alleging, essentially, infringement of Article 6 of the ECHR and of the rights of the defence in that the appellant did not have the opportunity to make submissions in writing or orally before the order under appeal was adopted.

26 The appellant alleges infringement of Article 6(1) of the ECHR, the first and second paragraphs of Article 47 of the Charter of Fundamental Rights, the principle of 'access to the courts', the principle of the impartiality of the Tribunal, the rights of the defence, the principle of the public character of the procedure and the principle of procedural fairness in that the Civil Service Tribunal dismissed the action as manifestly inadmissible without giving her the opportunity to 'make right or complete' her application, in particular by the submission of a reply, or by allowing her to defend herself at a public hearing.

27 The Commission contests the arguments put forward by the appellant.

28 It must be recalled that the application of the procedure provided for in Article 76 of the Rules of Procedure of the Civil Service Tribunal does not in itself prejudice the right to proper and effective judicial process, since that provision is applicable only to cases where it is clear that the Civil Service Tribunal manifestly has no jurisdiction to take cognisance of the action, or where the action is manifestly inadmissible or manifestly lacking any foundation in law (see, to that effect, order of 16 December 2010 in *Meister* v *OHIM*, T-48/10 P, ECR-SC, EU:T:2010:542, paragraph 29; see also, by analogy, order of 3 June 2005 in *Killinger* v *Germany and Others*, C-396/03 P, ECR, EU:C:2005:355, paragraph 9, and judgment of 19 February 2009 in *Gorostiaga Atxalandabaso* v *Parliament*, C-308/07 P, ECR, EU:C:2009:103, paragraph 36).

29 Consequently, if an appellant considers that the Civil Service Tribunal did not apply Article 76 of the Rules of Procedure of the Civil Service Tribunal correctly, it is up to that appellant to challenge the assessment by the court at first instance of the conditions to which the application of that provision is subject (see, to that effect, order in *Meister* v *OHIM*, cited in paragraph 28 above, EU:T:2010:542, paragraph 29; see also, by analogy, judgment in *Gorostiaga Atxalandabaso* v *Parliament*, cited in paragraph 28 above, EU:C:2009:103, paragraph 36).

30 In the present case, the appellant merely states that she did not have the opportunity to present her observations before the order under appeal was adopted but fails to demonstrate the error of law committed by the Civil Service Tribunal in its application of Article 76 of the Rules of Procedure of the Civil Service Tribunal.

31 First, she does not demonstrate that the Civil Service Tribunal, by not giving her the opportunity to 'to make right or complete her application', is in breach of the conditions for applying Article 76. She merely claims that such an opportunity is 'a right provisioned for and recognised in the legislation of any European country but also of the European courts (for example the European Court of Human Rights)' without any other explanation to support that claim.

32 Neither the provisions of Article 76 of the Rules of Procedure of the Civil Service Tribunal nor any other provision of those rules or of the Statute of the Court of Justice place any obligation on the Civil Service Tribunal to notify the party lodging an action that his application is manifestly inadmissible. The appellant does not identify any other provision or any other principle applicable to this case which lays down such an obligation.

33 Moreover, although it is true that the Statute of the Court of Justice and the Rules of Procedure of the Civil Service Tribunal provide for the possibility of rectifying an application which does not comply with certain procedural requirements, it is also true that, in any event, non-compliance with Article 35(1)(e) of the Rules of Procedure of the Civil Service Tribunal is not one of the requirements which can be rectified, in accordance with Article 36 of those rules.

34 It follows that, in not inviting the appellant to rectify or complete her application, the Civil Service Tribunal has not committed any procedural irregularity.

35 Secondly, the appellant also failed to demonstrate in what way the refusal by the Civil Service Tribunal to have a second round of pleadings infringed Article 76 of its Rules of Procedure or any other provision of those rules. She merely states that the refusal to have a second round of pleadings 'deprived [her of] the chance to make right' what caused the action to be held to be inadmissible. It must be recalled that Article 76 of the Rules of Procedure of the Civil Service Tribunal expressly states that, where an action is, in whole or in part, manifestly inadmissible or manifestly lacking any foundation in law, the Tribunal may, 'by reasoned order, give a decision on the action without taking further steps in the proceedings'. In any event, in accordance with Article 41 of the Rules of Procedure of the Civil Service Tribunal, the latter 'may' decide that a second exchange of written pleadings is necessary to supplement the documents before the Tribunal.

36 The appellant cannot therefore criticise the Civil Service Tribunal for having refused a second exchange of pleadings.

37 Thirdly, the appellant merely states that 'the principle of the public character of the procedure', which entails the holding of a public hearing, 'is provided for by the Rules of Procedure of the Civil Service Tribunal and by Article 6(1) of [the ECHR]' without, however, supporting that assertion.

38 It is clear from the very wording of Article 76 of the Rules of Procedure of the Civil Service Tribunal that applicants do not have a right to a hearing which cannot be derogated from (see, by analogy, order of 8 July 1999 in *Goldstein* v *Commission*, C-199/98 P, EU:C:1999:379, paragraph 18, and judgment of 8 September 2008 in *Kerstens* v *Commission*, T-222/07 P, ECR-SC, EU:T:2008:314, paragraph 33).

39 Whilst it is true that Article 6(1) of the ECHR provides that everyone is entitled to a public hearing, that principle is not absolute. The Court of Justice has held that that option of dispensing with the oral procedure does not prejudice the right to a proper and effective judicial process, since that option is applicable to cases in which it is clear that the General Court has no jurisdiction to take cognisance of the action, or where the action is manifestly inadmissible or manifestly lacking any foundation in law (judgment in *Gorostiaga Atxalandabaso* v *Parliament*, cited in paragraph 28 above, EU:C:2009:103, paragraph 36).

40 It follows that the Civil Service Tribunal, in giving its decision in the form of an order without holding a hearing, has not infringed Article 6 of the ECHR, or its own Rules of Procedure, or the right to be heard, or the principle of the public character of the procedure.

41 Finally, the appellant claims that the principle of the impartiality of the Tribunal has been infringed. According to the case-law there are two aspects to the requirement of impartiality. In the first place, the Tribunal must be subjectively impartial, that is to say, none of its members must show bias or personal prejudice, there being a presumption of personal impartiality in the absence of evidence to the contrary. In the second place, the Tribunal must be objectively impartial, that is to say, it must offer guarantees sufficient to exclude any legitimate doubt in this respect (see order of 15 December 2011 in *Altner* v *Commission*, C-411/11 P, EU:C:2011:852, paragraph 15 and the case-law cited).

42 The appellant has adduced no evidence which might call into question the personal impartiality of the members of the Civil Service Tribunal or which raises doubts over the impartiality of the Tribunal.

43 The second, third, fourth and fifth grounds of appeal must therefore be rejected as manifestly unfounded.

– The sixth ground of appeal, alleging infringement of the first paragraph of Article 21 of the Statute of the Court of Justice and Article 44(1)(c) of the Rules of Procedure of the General Court

44 The appellant claims that the Civil Service Tribunal infringed the first paragraph of Article 21 of the Statute of the Court of Justice and Article 44(1)(c) of the Rules of Procedure of the General Court in that it 'applied, in fact, "a rule of crystallising the legal proceedings" in considering that the application did not contain pleas in law'.

45 The Commission did not comment on the appellant's arguments.

46 In the first place, it must be noted that Article 44 of the Rules of Procedure of the General Court does not apply to the Civil Service Tribunal, and consequently the applicant cannot rely on a breach of that provision by the Tribunal.

47 In the second place, even assuming that the appellant meant to refer to Article 35(1)(e) of the Rules of Procedure of the Civil Service Tribunal, it must be stated that, in support of her claim that the Civil Service Tribunal, in breach of the first paragraph of Article 21 of the Statute of the Court of Justice and the abovementioned Article 35, applied an alleged 'rule of crystallising the legal proceedings', the appellant does not provide any explanation nor any legal argument to show that the Civil Service Tribunal erred in law by rejecting as being manifestly inadmissible, in paragraphs 15 to 21 of the order under appeal, the claims for annulment of the contested decision.

48 The sixth ground of appeal must therefore be rejected as manifestly unfounded.

– The seventh ground of appeal, alleging essentially a distortion of the facts

49 The appellant states that, in the part of the order under appeal headed 'Factual background to the dispute', the Civil Service Tribunal states that she 'received at the due date the Note of the European Commission dated 6 September 2011' announcing the expiry of the employment contract and dealing with the formalities linked to her departure. The appellant maintains that, in the application at first instance, she denied having received that note before 31 October 2011. The appellant is also unsure on what basis the Civil Service Tribunal was able to indicate that that note 'reminded' her that her contract was due to expire and that she could obtain information about the formalities for her departure.

50 The Commission contests the arguments put forward by the appellant.

51 It is clear from settled case-law that the court at first instance has exclusive jurisdiction, first, to find the facts, except where the substantive inaccuracy of its findings is apparent from the documents submitted to it, and, second, to assess those facts. The appraisal of the facts by the court at first instance does not constitute, save where the evidence put before that court has been fundamentally misconstrued, a point of law which is subject, as such, to review by the Court of Justice or the General Court on appeal. Such distortion must be obvious from the documents on the Court's file, without there being any need to carry out a new assessment of the facts and evidence (see, to that effect, orders of 16 September 1997 in *Koelman* v *Commission*, C-59/96 P, ECR, EU:C:1997:404, paragraph 31, and of 7 December 2011 in *Mioni* v *Commission*, T-274/11 P, ECR-SC, EU:T:2011:719, paragraph 18; and judgment of 16 May 2013 in *Canga Fano* v *Council*, T-281/11 P, ECR-SC, EU:T:2013:252, paragraph 75).

52 According to paragraph 5 of the order under appeal, '[b]y note of 6 September 2011, the Director of the Directorate for "Resources in Headquarters and in Delegations" in the Commission Directorate-General responsible for "Development and Cooperation — EuropeAid" reminded the [appellant] that her contract was due to expire on 9 November 2011 and advised her to contact the relevant department to obtain the information needed in connection with the formalities for her departure'.

53 It is evident that it is not stated in paragraph 5 of the order under appeal, contrary to what the appellant claims, that she 'received at the due date the note of 6 September 2011'. It refers only to the date of the note without alluding to the date the appellant received that note. The appellant has therefore failed to establish that the note was not dated 6 September 2011.

54 Moreover, paragraph 5 of the order under appeal must be read in conjunction with the preceding paragraph 4, so that the note of 6 September 2011 did in fact 'remind' the appellant of what she had already been told orally on 27 July 2011, as is, moreover, expressly stated in paragraph 2 of the application at first instance.

55 In any event, the appellant does not draw any legal inference from the alleged distortion (see, to that effect, judgments of 9 September 2010 in *Andreasen* v *Commission*, T-17/08 P, ECR-SC, EU:T:2010:374, paragraph 76, and of 24 October 2011 in *P* v *Parliament*, T-213/10 P, ECR-SC, EU:T:2011:617, paragraph 57).

56 The seventh ground of appeal must therefore be rejected as manifestly unfounded.

– The eighth ground of appeal, alleging that the Civil Service Tribunal erroneously ordered the appellant to pay the costs

57 The appellant criticises the Civil Service Tribunal for having ordered her to pay the costs, since it did not rule on the merits of the action and there was in fact no legal argument or hearing. According to the appellant, that order to pay costs aggravated the penalty of having her action dismissed as being inadmissible at a time when she had become financially dependent as a result of the termination of her contract of employment. The appellant then cites Article 89(6) of the Rules of Procedure of the Civil Service Tribunal, according to which 'where a case does not proceed to judgment, the costs shall be in the discretion of the [Civil Service] Tribunal'.

58 The Commission did not comment on the appellant's arguments.

59 It is apparent from Article 11(2) of Annex I to the Statute of the Court of Justice that no appeal may lie regarding only the amount of the costs or the party ordered to pay them. It follows that, where all the other grounds put forward in an appeal have been rejected, any ground challenging the decision of the Civil Service Tribunal on costs must be rejected as being inadmissible (see order of 9 September 2009 in *Nijs* v *Court of Auditors*, T-375/08 P, ECR-SC, EU:T:2009:321, paragraph 71 and the case-law cited).

60 In the present case, all the grounds relied on by the appellant in support of her claim that the order under appeal be set aside have been dismissed, as is clear from paragraphs 17 to 56 above.

61 It follows that the eighth ground of appeal must be rejected as being manifestly inadmissible.

The claim that the Court should review of its own motion any other infringement of the applicable rules of law which the Civil Service Tribunal might have committed

62 It is clear from Article 138(1)(c) of the Rules of Procedure of the General Court that it is for the appellant to present in the appeal 'the pleas in law and legal arguments relied on'.

63 According to settled case-law, it is clear from Article 11 of Annex I to the Statute of the Court of Justice and Article 138(1)(c) of the Rules of Procedure that an appeal must indicate precisely the contested elements of the judgment which the appellant seeks to have set aside and also the legal arguments specifically advanced in support of the appeal (see, to that effect, judgment of 16 December 2010 in *Lebedef* v *Commission*, T-52/10 P, ECR-SC, EU:T:2010:543, paragraph 35, and order of 13 January 2014 in *Lebedef* v *Commission*, T-116/13 P and T-117/13 P, ECR-SC, EU:T:2014:21, paragraph 23).

64 In the present case, the appellant merely sets out the head of claim in an abstract manner without supporting it with specific information, in particular relating to the rules of law which the Civil Service Tribunal is alleged to have infringed.

65 This head of claim must therefore be rejected as being manifestly inadmissible.

The claim that the Court should 're-judge the case' and uphold the appellant's claims

66 Since the claim that the order under appeal be set aside has been rejected, the head of claim that the Court should 're-judge the case' and uphold the appellant's claims set out at first instance must also be rejected.

67 Even assuming that the present head of claim had been formulated independently of the claim to have the order under appeal set aside, it must be observed that, in accordance with settled case-law, in an appeal the jurisdiction of the Court is in principle confined to review of the findings of law on the pleas argued at first instance (see, by analogy, judgments of 11 November 2004 in *Ramondín and Others* v *Commission*, C-186/02 P and C-188/02 P, ECR, EU:C:2004:702, paragraph 60, and of 22 June 2006 in *Storck* v *OHIM*, C-25/05 P, ECR, EU:C:2006:422, paragraph 61).

68 An appeal which merely repeats or reproduces verbatim the pleas in law and arguments previously submitted to the Civil Service Tribunal amounts in reality to no more than a request for re-examination of the application submitted to the Civil Service Tribunal, which the Court does not have jurisdiction to undertake (see, to that effect, order of 4 April 2011 in *Marcuccio* v *Commission*, T-239/09 P, ECR-SC, EU:T:2011:138, paragraph 62).

69 In the present case, in the application initiating the appeal, the appellant puts forward a number of arguments intended to prove that the Commission infringed, in particular, the provisions of the Staff Regulations of Officials of the European Union and the Conditions of Employment of Other Servants of the European Union, which leads her to repeat the arguments she made before the Civil Service Tribunal.

70 As regards the complaints and arguments submitted for the first time before this Court, these must be rejected as manifestly inadmissible. To allow a party to put forward for the first time before the Court a complaint which it has not raised before the Civil Service Tribunal would be to allow it to bring before the Court, whose jurisdiction in appeals is limited, a case of wider ambit than that which came before the Civil Service Tribunal (see, by analogy, judgments in *Ramondín and Others* v *Commission*, cited in paragraph 67 above, EU:C:2004:702, paragraph 60, and in *Storck* v *OHIM*, cited in paragraph 67 above, EU:C:2006:422, paragraph 61).

71 It follows that this head of claim must be rejected as being manifestly inadmissible.

72 It follows from all of the foregoing that this appeal must be dismissed as in part manifestly inadmissible and in part manifestly unfounded.

Costs

73 In accordance with the first paragraph of Article 148 of the Rules of Procedure of the General Court, where the appeal is unfounded, the Court shall make a decision as to costs.

74 Under the first subparagraph of Article 87(2) of the Rules of Procedure, which applies to appeal proceedings by virtue of Article 144 thereof, the unsuccessful party is to be ordered to pay the costs if they have been applied for in the successful party's pleadings.

75 Since the appellant has been unsuccessful in her submissions in the appeal and the Commission has applied for an order that she pay the costs of the proceedings, the appellant shall bear her own costs and pay those incurred by the Commission in the present proceedings.

On those grounds,

THE GENERAL COURT (Appeal Chamber)

hereby:

1. **Dismisses the appeal;**

2. **Orders BT to bear her own costs and to pay those incurred by the European Commission in the present proceedings.**

Luxembourg, 7 October 2014.

E. Coulon
Registrar

M. Jaeger
President