In support of its action, the applicant puts forward a number of pleas in law alleging, among other things:

— errors in law, manifest errors of assessment and breaches of its duty to examine carefully damage by the practices complained of to the functioning of the internal market, on the ground that the Commission confined itself to (i) examining only the mean level of prices for broadband on retail markets without inquiring whether that level of prices was actually likely to reveal the practices complained of, and (ii) a subjective assessment of the obsolete nature of the provision of a telephone subscription service;

— an insufficient statement of reasons, errors in law and of fact and manifest errors of assessment on the ground that the Commission concluded that the possibility of establishing the existence of an infringement was very limited, since the Commission:

  — did not seek to examine the question of the discriminatory character of the prices actually invoiced by reference to the services actually supplied and wrongly asserted that the preliminary investigation had not revealed any documentary or other evidence;

  — decided that the calculation method used by France Télécom to set its tariffs for access to the local loop was validated by the Autorité de régulation des communications électroniques et des postes (Electronic Communications and Postal Regulation Authority) (ARCEP) and considered that the fact that France Télécom had sent it erroneous information without seeking to correct it was irrelevant in view of the method used;

  — distorted the object of the eviction tests submitted by the applicant, which was to establish the effects of the practices complained of;

— disregard of the guarantees which apply to the investigation of complaints and to decisions to take no action in respect of abuse of a dominant position, the applicant (i) not having been given immediate access to adverse documents or to the documents in the file and (ii) not having been given sufficient time to submit its comments on those documents.

Appeal brought on 20 September 2010 by Allen and Others against the Order of the European Union Civil Service Tribunal made on 13 July 2010 in case Allen and Others v Commission, F-103/09

(Case T-433/10 P)

(2010/C 317/74)

Language of the case: English

Parties

Appellant: John Allen (Horspath, United Kingdom) and Others (represented by: K. Lasok, QC and B. Lask, Barrister)

Other party to the appeal proceedings: European Commission

Form of order sought by the appellant

— Allow the appeal;

— Quash the Order of the European Union Civil Service Tribunal (First Chamber), dated 13 July 2010 in case F-103/09;

— Dismiss the first and second plea of admissibility raised by the defendant; and

— Order the costs of this appeal to be paid by the defendant.

Pleas in law and main arguments

By the present appeal, the appellants seek to have set aside the Order to the European Union Civil Service Tribunal (EUCST) of 13 July 2010, delivered in case F-103/09 *Allen and Others v Commission*, by which the EUCST dismissed as inadmissible the action by which the appellants have sought damages and the annulment of a decision refusing to pay damages in respect of the loss suffered by each applicant as a result of the fact that they were not recruited as temporary servants of the Communities during the time they worked at the Joint European Torus (JET) Joint Undertaking.

In support of their appeal, the appellants submit that by concluding that an obligation to act within a reasonable period applied in the present context and, even if it did, by its approach to the duration and start point of that period, the EUCST acted contrary to the case law of the Court of Justice and to fundamental principles of European Union law.

Action brought on 15 September 2010 — Hit Groep BV v European Commission

(Case T-436/10)

(2010/C 317/75)

Language of the case: Dutch

Parties

Applicant: Hit Groep BV (Haarlem, Netherlands) (represented by: G. van der Wal, G. Oosterhuis and H. Albers, lawyers)

Defendant: European Commission