



# The Offici@l

LEGAL NEWSLETTER ON EUROPEAN CIVIL SERVICE LAW

Dal & Veldekens

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## Edito

In October, «The Offici@l» is providing an update on recent developments regarding rules relating to the protection of European officials' rights, both at internal and jurisdictional levels, illustrated by the amendment to the Rules of Procedure of the European Union Civil Service Tribunal or to the Staff regulations' rules on «whistleblowing».

In addition, we continue our study on the rules governing the lease in Belgium, focusing this time on the registration of the lease.

We hope you enjoy reading.

*Dal & Veldekens team*

## Focus

### Reform of the procedure before the Civil Service Tribunal

The Rules of Procedure of the Court of Civil Service have been modified and will come into force on October 1<sup>st</sup>, 2014. Several changes directly impact the extent of legal protection enjoyed by officials and are worth noting.

These changes are intended, first, to rationalize the resources of the Tribunal. A panel of three judges will henceforth be able to refer a case to the Judge-Rapporteur, sitting as a single judge, even in cases that raise issues about the legality of a measure of general application, provided that the Court of Justice, the General Court or the Civil Service Tribunal has already ruled on these issues.

In addition, the new procedural regulation plans to develop the use of so-called «test cases» when one or more identical legal questions have arisen in several cases with similar factual context.

Second, the Court now apply a stricter policy regarding the admissibility of applications. Thus, the penalty for non-compliance on the length of briefs (30 pages) may now be, if things are not put in order, the inadmissibility of the application. The rules relating to compliance with the procedural language and presentation will also be strictly enforced. The rules relating to requests for extensions of time and postponement of hearings will be strictly enforced as well.

Finally, in order to limit the cases of multiple and abusive requests, the Tribunal will have the power to ask for a consignment. This covers the case of applicants who have already filed several motions or requests for suspension or other interim measures. There is also an increase in the amount of payment for costs vexatiously caused: it ranges from 2000 to 8000 EUR.

## In short...

### « Whistleblowing » Staff protection

Rules on the European civil servants' duty to report any information pertaining to corruption, fraud and other serious irregularities that they discover in the line of duty had been introduced in the Staff regulations in 2004.

On the occasion of the 2014 recasting, the whistleblower's protection has been strengthened: each Institution shall put in place a procedure for the handling of complaints made by officials concerning the way they were treated after whistleblowing.

## Case law

### Harrasment and compensation for moral damage

The Civil service Tribunal adopted, on July 10th, 2014, a judgment *CG / European Investment Bank* regarding the conduct of internal investigations on harassment (case F-103/11).

Upon request of Mrs. CG, an investigation on potential bullying behavior had been opened against two staff members of the EIB. On this occasion, the Bank had communicated to the alleged harassers the entire complaint of M. CG, together with its attachments containing medical certificates.

The investigative committee, after having found the actions alleged by the complainant, did not rule on the question of whether such behavior constituted a case of harassment. On this basis, the President of the EIB decided not to take action on the complaint of Mrs. CG.

Firstly, the Tribunal considers that the President's decision to terminate the investigation with no further action is illegal in so far as grounded on an opinion of the committee of inquiry which is incoherent and flawed. Then, without prejudging the outcome of a new inquiry, the Tribunal grants to Mrs. CG a compensation for moral damage valued at 35,000 euros.

This compensation aims at repairing moral damages resulting from the uncertainty and anxiety suffered by the complainant following the adoption of illegal decision by the President of the EIB and from the violation of EIB's internal policy regarding the protection of personal data by the transmission of Mrs. CG's medical certificates to her alleged harassers.

## Day to day in Belgium

### Registration of the lease

Since the January 1<sup>st</sup>, 2007, the registration of the lease is a required formality for the lessor. The lease shall be submitted by the lessor within the two months following signature of the lease at the registration office of the jurisdiction in which the property is located.

Register a contract lease ensures it a definite date and makes it effective against third parties.

If the lease is not registered, the lessor faces fiscal penalties but also civil sanctions: the tenant may terminate the contract without either notice or compensation.

However, the registration of the lease aims above all to protect the tenant, especially when the property is sold when the contract concerns principal residence lease. By registering the lease, the tenant enjoys indeed legal protection against expulsion by the new owner from the date on which the contract has been registered. If the lessor does not fulfill this obligation within the legal time frame, the tenant is thus advised to carry out himself this formality.

## Our team

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