



Press and Information

General Court of the European Union

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Judgment in Cases T-275/17

Michela Curto v Parliament and T-377/17 SQ v EIB

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## **The General Court orders the European Parliament and the EIB to each pay €10 000 in damages to members of staff who have suffered psychological harassment**

*The General Court clarifies, in that context, the scope of its powers of judicial review in psychological harassment cases and the duty of the institutions to open disciplinary proceedings when harassment has occurred*

In Case T-275/17, a former Member of the European Parliament hired a parliamentary assistant for the remainder of her mandate, which expired in May 2014. On 7 November 2013, the MEP requested the European Parliament to terminate the contract on the ground, inter alia, that her assistant had decided, without seeking permission, not to come to work for an entire week. The MEP stated in her request that, when she raised this with her assistant, her assistant insulted her and then disappeared.

Following the termination of her contract by the Parliament in December 2013, the assistant submitted a request for assistance, as provided for in the Staff Regulations of Officials of the European Union<sup>1</sup>, on the ground that the MEP had subjected her to psychological harassment consisting of humiliating and scornful language, threats, insults and screams.

The Parliament rejected that request, considering that the events in question had occurred against a background of great tension between the two women. In the Parliament's view, although the use of harsh language is in itself deplorable, it is, at the same time, sometimes difficult, in a work environment that is intrinsically stressful due to the nature of parliamentary work, to refrain from using such language.

In Case T-377/17, the European Investment Bank (EIB) hired an administrator on 1 April 2008. Following the arrival of a new director in October 2014, the department in which the administrator worked was restructured and the team for which she was responsible was not maintained. Two years later, the administrator lodged a complaint with the EIB to the effect that the behaviour of the new director towards her constituted psychological harassment. In essence, the administrator claimed that the new director had brutally halted her career progression by removing her from a position of responsibility without due cause, that he had belittled her, spoken to her inappropriately, aggressively, disdainfully and accusingly, withheld certain information, failed to provide her with feedback on her performance at work and that he had treated her unfavourably in relation to other persons.

The EIB upheld the complaint in part only, finding that the administrator had been subjected to psychological harassment in connection with some of the acts alleged. It then informed the new director that, if a new complaint were to be made concerning him, it would open disciplinary proceedings against him. Moreover, the EIB requested the new director to formally apologise to the administrator for the suffering he had caused her and also instructed the human resources department to examine the possibility of professional coaching for the new director on his style of management and communication. Lastly, the EIB informed the administrator that the procedure was to remain strictly confidential, including within the institution.

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<sup>1</sup> Article 24 of the Staff Regulations of Officials of the European Union.

As they were not satisfied with the respective decisions of the European Parliament and the EIB, the two members of staff brought actions for annulment of those decisions and claims for damages before the General Court of the European Union.

In its judgments today, **the General Court finds that the two members of staff in question were subjected to psychological harassment and orders the Parliament and the EIB to pay each of them €10 000 in damages.**

The Court recalls<sup>2</sup> first of all that the **concept of psychological harassment** covers improper conduct in the form of physical behaviour, spoken or written language, gestures or other acts, which takes place over a period and is repetitive or systematic, suggesting that psychological harassment must be understood as a process that occurs over time and presupposes the existence of repetitive or continual behaviour which is intentional, as opposed to accidental. Furthermore, such physical behaviour, spoken or written language, gestures or other acts must have the effect of undermining the personality, dignity or physical or psychological integrity of a person. The Court states in that regard that it does not intend to limit itself in this field to reviewing whether there has been a manifest error of assessment. On the contrary, it takes the view that it is its duty to comprehensively review the facts in the light of the two conditions set out above.

As regards Case T-275/17, after stating that, notwithstanding their status as Members of an institution, MEPs are required to have due regard for the dignity and health of their assistants, the Court notes that the acts alleged by the parliamentary assistant have been corroborated by witnesses and, in fact, the accuracy of those claims has not been challenged either by the Parliament or by the MEP. The Court next observes that the nature and, in particular, the singular vulgarity of the language that the MEP used with her assistant constitute belittlement, both of the assistant herself and of her work. **The MEP's behaviour thus appears to be improper and can in no way be regarded as an attitude befitting a Member of an EU institution.**

Moreover, the Court takes the view that the improper nature of the conduct of the MEP at issue cannot be tempered by the closeness of her relationship with her assistant or by the tense atmosphere within the MEP's team of parliamentary assistants. It follows that, **when it concluded that the MEP's behaviour was not improper, the Parliament erred in its assessment of the facts — which is, moreover, a manifest error — in the light of the definition of psychological harassment.**

Concerning damages, the Court recalls that a victim of psychological harassment within a European institution must bring legal proceedings for damages against the harasser before a national court. Those proceedings can, if appropriate, be supported financially by the institution which employed the victim in accordance with its duty to provide assistance. Therefore, it is only because of the unreasonable duration of the handling of the request for assistance (including the administrative inquiry) that the Court awards €10 000 in damages to the parliamentary assistant.

As regards Case T-377/17, the Court considers, first of all, that **the EIB erred in law** in requiring that, in order to come within the definition of 'psychological harassment', conduct must be repeated in the same way, irrespective of the cumulative effect of the other kinds of conduct alleged in undermining the self-esteem and self-confidence of the person affected by that conduct. **The EIB failed to examine whether each of the director's acts alleged could have, in conjunction with the others, resulted, objectively, in undermining the administrator's self-esteem and confidence.** Therefore, as regards the behaviour that, according to the EIB, did not constitute psychological harassment, the Court concludes that the EIB must carry out a new assessment of the various acts of the new director in order to determine whether, taken together, they constitute psychological harassment.

The Court goes on to find that, **when the EIB concluded that disciplinary proceedings would be opened against the new director only in the event of further inappropriate conduct within a three-year period, it adopted insufficient and inappropriate measures, given the**

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<sup>2</sup> Case [T-218/17](#) HF v Parliament

seriousness of the case, at the very least in so far as concerns the action to be taken immediately in response to the acts it identified as constituting psychological harassment. Such a penalty in respect of conduct found to constitute psychological harassment would be imposed only in the event of a further finding of reprehensible conduct, and that finding would, in turn, depend, as the case may be, on whether or not the new victim decided to lodge a complaint under the Policy on Dignity at Work, which cannot be predicted. Moreover, in the light of the inherent seriousness of any behaviour constituting psychological harassment, that penalty would not be consistent with the objective of the provisions applicable to the EIB concerning dignity at work.

Lastly, the Court finds that **the EIB was not entitled to impose a level of confidentiality on its decision and on the new director's letter of apology that amounted to prohibiting the administrator from disclosing to third parties the existence and content of those documents.** Requiring a victim of psychological harassment to stay silent in respect of the existence of such acts would result in the person concerned being unable to derive any benefit from the findings made by the institution concerned, inter alia, in legal proceedings that might be brought before a national court against the harasser. In addition, such an interpretation would run counter to the objective of preventing and penalising all occurrences of psychological harassment within the EU institutions, psychological harassment constituting a disregard of workers' fundamental rights. It is because of the silence unduly imposed on the victim by the EIB that the Court awards €10 000 in damages to the administrator.

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**NOTE:** An appeal, limited to points of law only, may be brought before the Court of Justice against the decision of the General Court within two months of notification of the decision.

**NOTE:** An action for annulment seeks the annulment of acts of the institutions of the European Union that are contrary to EU law. The Member States, the European institutions and individuals may, under certain conditions, bring an action for annulment before the Court of Justice or the General Court. If the action is well founded, the act is annulled. The institution concerned must fill any legal vacuum created by the annulment of the act.

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*Unofficial document for media use, not binding on the General Court.*

*The full text of the judgments ([T-275/17](#) and [T-377/17](#)) are published on the CURIA website on the day of delivery*

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