

ORDER OF THE GENERAL COURT (Fifth Chamber)

24 March 2014(1)

(Action for annulment – Representation by a lawyer who is not a third party – Manifest inadmissibility)

In Case T-110/14,

ADR Center Srl, established in Rome (Italy), represented by G. De Palo, lawyer,

applicant,

v

European Commission,

defendant,

APPLICATION for annulment of the decision of the European Commission, following an audit, claiming the partial recovery of an advance payment made to the applicant pursuant to the grant agreements No JLS/CJ/2007-1/18, JLS/CJ/2001-1/19 and JLS/CJ/2007 1/21, related to projects on the mediation procedure,

THE GENERAL COURT (Fifth Chamber),

composed of A Dittrich (Rapporteur), President, J. Schwarcz and V. Tomljenović, Judges,

Registrar: E. Coulon,

makes the following

Order

Procedure and form of order sought by the applicant

- 1 By application lodged at the Registry of the Court on 13 February 2014, the applicant brought the present action.
- 2 The applicant claims that the Court should:
 - Annul the European Commission’s decision set out in its letter of 6 December 2013 claiming the partial recovery of an advance payment made to ADR Center;
 - Order the immediate payment of the balance due to ADR Center of EUR 79 700.40, according to the *pro forma* invoice and credit notes issued on 13 November 2013;
 - Order the immediate payment of damages suffered by ADR Center to its international reputation, and for the time devoted by its senior staff to defend an allegedly groundless claim;
 - Order the defendant and any interveners to pay the applicants legal costs and expenses for this procedure in an amount to be determined equitably by the Court.

Law

3 Under Article 111 of the Rules of Procedure, where the action is manifestly inadmissible the Court may, without taking further steps in the proceedings, give a decision on the action by reasoned order.

4 In the present case, the Court considers that it has sufficient information from the documents in the file and has decided, pursuant to that article, to give a decision without taking further steps in the proceedings.

5 The first, third and fourth paragraphs of Article 19 of the Statute of the Court of Justice of the European Union, applicable to the General Court pursuant to Article 53 thereof, provide as follows:

‘The Member States and the institutions of the Union shall be represented before the Court of Justice by an agent appointed for each case; the agent may be assisted by an adviser or by a lawyer.

...

Other parties must be represented by a lawyer.

Only a lawyer authorised to practise before a court of a Member State or of another State which is a party to the Agreement on the European Economic Area may represent or assist a party before the Court.’

6 The first paragraph of Article 21 of the Statute of the Court of Justice is worded as follows:

‘A case shall be brought before the Court of Justice by a written application addressed to the Registrar. The application shall contain the applicant’s name and permanent address and the description of the signatory ...’

7 According to settled case-law, it follows from the abovementioned provisions, in particular from the use of the term ‘represented’ in the third paragraph of Article 19 of the Statute of the Court of Justice, that, in order to bring an action before the General Court, a party within the meaning of that article is not authorised to act in person, but must use the services of a third person authorised to practise before a court of a Member State or of a State which is a party to the Agreement on the European Economic Area (order in Case C 174/96 P *Lopes v Court of Justice* [1996] ECR I-6401, paragraph 11; order of 29 November 1999 in Case T 131/99 *Shaw and Falla v Commission*, not published in the ECR, paragraph 11; order in Case T 79/99 *Euro-Lex v OHIM (EU-LEX)* [1999] ECR II 3555, paragraph 27; and order in Case T 184/04 *Sulvida v Commission* [2005] ECR II 85, paragraph 8).

8 The requirement to have recourse to a third party is based on a conception of the lawyer’s role as collaborating in the administration of justice and as being required to provide, in full independence and in the overriding interests of justice, such legal assistance as his client needs (Case 155/79 *AM & S v Commission* [1982] ECR 1575, paragraph 24; orders in *EU-LEX*, paragraph 28, and *Sulvida v Commission*, paragraph 9).

9 A legal person cannot for that reason be properly represented before the Courts of the European Union by a lawyer who has, within the body which he represents, extensive administrative and financial powers (see, to that effect, order of 29 September 2010 in Joined Cases C 74/10 P and C 75/10 P *EREF v Commission*, not published in the ECR, paragraphs 50 and 51).

10 Furthermore, according to the case-law, the provisions concerning the representation of non-privileged parties before the Court must be interpreted, so far as possible, independently, without reference to national law (see, to that effect, order in *EU-LEX*, paragraph 26).

11 In the present case, it is clear from the formal documents submitted by the applicant that Mr De Palo, the sole lawyer having lodged the application, is one of the owners of the applicant and the president of its board of administration. As such, Mr De Palo’s role in ADR Center is not compatible with the requirement that it be represented by a third party before the Courts of the European Union, as interpreted by the case-law cited above.

12 It follows from the above considerations that the present action must be rejected as manifestly inadmissible and there is no need for it to be served on the defendant.

Costs

As the present order was adopted prior to service of the application on the defendant and before the latter could have incurred costs, it is sufficient to decide that the applicant must bear its own costs pursuant to Article 87(1) of the Rules of Procedure.

On those grounds,

THE GENERAL COURT (Fifth Chamber)

hereby orders:

- 1. The action is dismissed.**
- 2. The applicant shall pay its own costs.**

Luxembourg, 24 March 2014.

E. Coulon

A. Dittrich

Registrar

President

¹ Language of the case: English.