JUDGMENT OF THE COURT (Fourth Chamber)

28 February 2013 (*)

(Review of the judgment in Case T-234/11 P – Action for annulment – Admissibility – Time-limit for bringing proceedings – Time-limit not set by a provision of European Union law – Concept of 'reasonable period' – Interpretation – Obligation on the Courts of the European Union to take account of the particular circumstances of each case – Right to an effective legal remedy – Article 47 of the Charter of Fundamental Rights of the European Union – Whether the consistency of European Union law is affected)

In Case C-334/12 RX-II,

REVIEW, under the second subparagraph of Article 256(2) of the TFEU, of the judgment of the General Court of the European Union of 19 June 2012 in Case T-234/11 P *Arango Jaramillo and Others* v *European Investment Bank*, delivered in the proceedings

Oscar Orlando Arango Jaramillo, residing in Luxembourg (Luxembourg),

María Esther Badiola, residing in Luxembourg,

Marcella Bellucci, residing in Luxembourg,

Stefan Bidiuc, residing in Grevenmacher (Luxembourg),

Raffaella Calvi, residing in Schuttrange (Luxembourg),

Maria José Cerrato, residing in Luxembourg,

Sara Confortola, residing in Verona (Italy),

Carlos D'Anglade, residing in Luxembourg,

Nuno da Fonseca Pestana Ascenso Pires, residing in Luxembourg,

Andrew Davie, residing in Medernach (Luxembourg),

Marta de Sousa e Costa Correia, residing in Itzig (Luxembourg),

Nausica Di Rienzo, residing in Luxembourg,

José Manuel Fernandez Riveiro, residing in Sandweiler (Luxembourg),

Eric Gällstad, residing in Rameldange (Luxembourg),

Andres Gavira Etzel, residing in Luxembourg,

Igor Greindl, residing in Canach (Luxembourg),

José Doramas Jorge Calderón, residing in Luxembourg,

Monica Lledó Moreno, residing in Sandweiler,

Antonio Lorenzo Ucha, residing in Luxembourg,

Juan Antonio Magaña-Campos, residing in Luxembourg,

Petia Manolova, residing in Bereldange (Luxembourg),

Ferran Minguella Minguella, residing in Gonderange (Luxembourg),

Barbara Mulder-Bahovec, residing in Luxembourg,

István Papp, residing in Luxembourg,

Stephen Richards, residing in Blaschette (Luxembourg),

Lourdes Rodriguez Castellanos, residing in Sandweiler,

Daniela Sacchi, residing in Mondorf-les-Bains (Luxembourg),

Maria Teresa Sousa Coutinho da Silveira Ramos, residing in Almargem do Bispo (Portugal),

Isabelle Stoffel, residing in Mondorf-les-Bains,

Fernando Torija, residing in Luxembourg,

María del Pilar Vargas Casasola, residing in Luxembourg,

Carolina Vento Sánchez, residing in Luxembourg,

Pé Verhoeven, residing in Brussels (Belgium),

Sabina Zajc, residing in Contern (Luxembourg),

Peter Zajc, residing in Contern,

v

European Investment Bank (EIB),

THE COURT (Fourth Chamber),

composed of L. Bay Larsen (Rapporteur), President of the Chamber, J. Malenovský, U. Lõhmus, M. Safjan and A. Prechal, Judges,

Advocate General: P. Mengozzi,

Registrar: A. Calot Escobar,

having regard to the written procedure,

after considering the observations submitted on behalf of:

– Mr Arango Jaramillo and 34 other members of the staff of the European Investment Bank (EIB), by B. Cortese, avocat,

– the European Investment Bank, by C. Gómez de la Cruz and T. Gilliams, acting as Agents,

– the Portuguese Government, by L. Inez Fernandes, acting as Agent,

– the European Commission, by J. Currall, H. Kraemer and D. Martin, acting as Agents,

having regard to Article 62a and the first paragraph of Article 62b of the Statute of the Court of Justice of the European Union,

after hearing the Advocate General,

gives the following

Judgment

1 The purpose of these proceedings is to review the judgment of the General Court of the European Union (Appeal Chamber) of 19 June 2012 in Case T-234/11 P *Arango Jaramillo and Others* v *EIB* [2012] ECR ('the judgment of 19 June 2012'), by which that court dismissed the appeal brought by Mr Arango Jaramillo and 34 other members of the staff of the European Investment Bank (EIB) (collectively, 'the members of staff concerned') against the order of the European Union Civil Service Tribunal of 4 February 2011 in Case F-34/10 *Arango Jaramillo and Others* v *EIB* ('the order of 4 February 2011'), dismissing as being inadmissible, on the ground that it was out of time, the application brought by the members of staff concerned for, first, annulment of their salary statements for the month of February 2010, in so far as they disclose the EIB's decisions to increase their contributions to the pension scheme, and, secondly, an order that the EIB pay them damages.

2 The review concerns whether the judgment of 19 June 2012 affects the unity or consistency of European Union law because, first, in that judgment the General Court of the European Union ('the General Court'), as an appeal court, interpreted the concept of a 'reasonable period', in connection with an action brought by staff members of the EIB for annulment of a measure adopted by the EIB which adversely affected them, as a period which, if exceeded, automatically entails that the action is out of time and, therefore, inadmissible, without the Courts of the European Union being required to take into consideration the particular circumstances of the case, and, secondly, in so far as that interpretation of that concept is such as to undermine the right to an effective legal remedy enshrined in Article 47 of the Charter of Fundamental Rights of the European Union ('the Charter').

Legal context

The Staff Regulations of Officials of the European Union

3 Article 91 of the Staff Regulations of Officials of the European Union, set out in Regulation (EEC, Euratom, ECSC) No 259/68 of the Council of 29 February 1968 laying down the Staff Regulations of Officials and the Conditions of Employment of Other Servants of the European Communities and instituting special measures temporarily applicable to officials of the Commission (OJ English Special Edition 1968 (I), p. 30), as amended, ('the Staff Regulations'), provides:

'1. The Court of Justice [of the European Union] shall have jurisdiction in any dispute between the Communities and any person to whom these Staff Regulations apply regarding the legality of an act adversely affecting such person within the meaning of Article 90(2). …

2. An appeal to the Court of Justice [of the European Union] shall lie only if:

– the appointing authority has previously had a complaint submitted to it pursuant to Article 90(2) within the period prescribed therein, and

– the complaint has been rejected by express decision or by implied decision.

3. Appeals under paragraph 2 shall be filed within three months. …'

4 Article 100(3) of the Rules of Procedure of the Civil Service Tribunal provides that the prescribed time-limit of three months is to be extended on account of distance by a single period of 10 days.

The Staff Regulations of the EIB

5 On 20 April 1960 the Board of Directors of the EIB adopted the Staff Regulations of the EIB, which have since undergone several changes. Article 42 of those regulations, concerning means of obtaining redress, establishes the jurisdiction of the Courts of the European Union to hear and determine actions relating to disputes between the EIB and its members of staff, but does not specify the period of time within which such actions must be brought.

Background to the case for review

Facts giving rise to the dispute

6 The members of staff concerned are employees of the EIB.

7 Since 1 January 2007 the salary statements of the EIB members of the staff are no longer produced in their traditional paper format but in electronic format. They are now entered in the EIB's 'Peoplesoft' computer system each month and can thus be accessed by every member of staff from his office computer.

8 On Saturday 13 February 2010 the salary statements for February 2010 were entered in the 'Peoplesoft' system. Those statements, as compared with the statements for January 2010, showed an increase in the rate of contributions to the pension scheme, an increase resulting from decisions taken by the EIB as part of the reform of its staff pension scheme.

The order of 4 February 2011

9 As is clear from paragraphs 15 and 16 of the order of 4 February 2011, the Civil Service Tribunal considered that, taking into account, first, that the members of staff concerned first became aware of the contents of their salary statements relating to February 2010 only on Monday 15 February 2010 and, secondly, the 10-day extension to the time-limit on account of distance, the members of staff had a period of time expiring on Tuesday 25 May 2010 within which to bring an action.

10 However, according to paragraph 17 of the order, the action brought by the members of staff concerned was received by the Registry of the Civil Service Tribunal, by electronic mail, only during the night of Tuesday 25 and Wednesday 26 May 2010, more precisely on 26 May 2010 at 00.00 hours.

11 By that action, the members of Staff concerned sought, first, annulment of their February 2010 salary statements and, secondly, an order that the EIB pay a symbolic EUR 1 by way of compensation for the non-material harm suffered by them.

12 By separate document lodged at the Registry of the Civil Service Tribunal, the EIB, pursuant to

Article 78 of the Rules of Procedure of that Tribunal, requested that the Civil Service Tribunal rule on the admissibility of the application without going to the substance of the case.

13 By the order of 4 February 2011 the Tribunal dismissed the action as being inadmissible. It held, in essence, that since the time-limit for bringing an action had expired on 25 May 2010, the application by the Members of Staff concerned, received electronically by the Registry of that Tribunal on 26 May at 00.00 hours, was out of time and, therefore, inadmissible. It rejected the arguments of those members of staff as to the infringement of their right to an effective legal remedy and the existence of unforeseeable circumstances or force majeure.

The judgment of 19 June 2012

14 By the judgment of 19 June 2012, the General Court of the European Union dismissed the appeal brought by the members of staff concerned, thereby confirming the order of 4 February 2011.

15 First, in paragraphs 22 to 25 of the judgment of 19 June 2012, the General Court outlined, in essence, the case-law to the effect that, in the absence of any provision setting the time-limits for bringing proceedings applicable to disputes between the EIB and its members of staff, such proceedings must be brought within a 'reasonable period' of time, which must be assessed in the light of the circumstances of the case. The General Court took the view, in paragraph 26 of that judgment, that the period of three months for bringing proceedings, laid down in Article 91(3) of the Staff Regulations, in disputes between the institutions and bodies of the European Union and their officials or members of staff, provides a 'relevant point of comparison' in so far as such proceedings are inherently similar to those between the EIB and its members of staff concerning measures adopted by the former which adversely affect the latter and which they seek to have annulled, and held, in paragraph 27 of the judgment, on the basis of a number of its previous judgments, that a period of time of three months must, 'as a general rule', be regarded as reasonable.

16 In that same paragraph 27 of the judgment of 19 June 2012, the General Court deduced from this 'by argument *a contrario* … that any action brought by an EIB staff member after the expiry of a three-month time limit, extended on account of distance by a single period of ten days, must, as a general rule, be considered not to have been brought within a reasonable period'. It added that such an *a contrario* interpretation is justified 'because only the strict application of procedural rules laying down time-limits serves the requirements of legal certainty and the need to avoid any discrimination or arbitrary treatment in the administration of justice'.

17 Secondly, in paragraph 30 of the judgment, the General Court dismissed the arguments of the members of staff concerned that, instead of applying the principle that an action must be brought within a reasonable period, which is inherently flexible and allows the weighing up of the specific interests at stake, the Civil Service Tribunal had required strict and general compliance with a precise time-limit of three months. The General Court took the view, in particular, that the Civil Service Tribunal had simply applied 'a rule of law … which follows clearly and precisely from an *a contrario* reading of the case-law [of the General Court cited in paragraph 27 of the judgment of 19 June 2012]', a rule which applies the principle that an action must be brought within a reasonable period specifically to disputes between the EIB and its members of staff, which are broadly similar to disputes between the European Union and its officials and members of staff. The General Court added that 'that rule, which is based on a general presumption that a three-month time-limit is, as a general rule, sufficient to enable EIB staff to assess the legality of EIB measures adversely affecting them and, if appropriate, to prepare their case, and the Courts of the European Union responsible for applying that rule are

not required either to take account of the particular circumstances of each individual case or, in particular, to weigh up the specific interests at stake'.

18 In paragraphs 33 to 35 of the judgment of 19 June 2012, the General Court referred to this reasoning as to the determination of the time-limit for bringing an action in order to rule out the need to take account of the alleged electrical failure that had delayed the sending of the originating application, of the fact that the EIB had failed to meet its legal responsibility to set precise time-limits for bringing actions, and of certain other circumstances specific to the present case put forward by the members of staff concerned.

19 In paragraphs 42 and 43 of that judgment, the General Court also dismissed the argument of the members of staff concerned alleging breach of the principle of proportionality and of the right to effective judicial protection.

20 Lastly, in paragraphs 51 to 58 of the judgment of 19 June 2012, the General Court rejected the plea in law put forward by the members of staff concerned regarding the Civil Service Tribunal's refusal to treat the circumstances that led to their bringing their action out of time as unforeseeable circumstances or as force majeure. In paragraphs 59 to 66 of the same judgment, the General Court likewise refused to uphold the plea by the members of staff alleging distortion of the evidence relating to the existence of unforeseeable circumstances or of force majeure.

Procedure before the Court of Justice

21 Following the proposal by the First Advocate General that the judgment of 19 June 2012 be reviewed, the Special Chamber, provided for in Article 123b of the Rules of Procedure of the Court of Justice, in the version applicable on the date of that proposal, held, by decision of 12 July 2012 in Case C-334/12 RX *Arango Jaramillo and Others* v *EIB*, that there should be a review of that judgment in order to determine whether it affects the unity or consistency of European Union law.

22 As regards the subject-matter of the review, the decision of 12 July 2012 identified two more specific grounds for the review. First, it is necessary to determine whether the General Court, by finding, like the Civil Service Tribunal, that, when assessing the reasonableness of the period within which an action was brought by EIB members of staff for annulment of an EIB measure adversely affecting them, the Courts of the European Union do not have to take account of the particular circumstances of each case, adopted an interpretation which is consistent with the case-law of the Court that the reasonableness of a time-limit which is not laid down by primary or secondary European Union law must be assessed by reference to the particular circumstances of each case.

23 Secondly, it is necessary to determine whether, by ruling that the consequence of exceeding the time-limit for bringing an action, which is not set by primary or secondary European Union law, is that the action is time-barred, the General Court's approach is such as to undermine the right to an effective legal remedy as provided for in Article 47 of the Charter.

24 If it were to be held that the judgment of 19 June 2012 is vitiated by an error of law, it would be necessary to examine whether that judgment affects the unity or consistency of European Union law and, if so, to what extent.

Consideration of the questions to be reviewed

25 As a preliminary point, it is important to note that no provision of European Union law lays

down a time-limit within which a member of staff of the EIB must bring an action for annulment of a measure adopted by the EIB which adversely affects him.

26 In addition, it should be noted that in the judgment of 19 June 2012, the General Court, after having pointed out, in paragraphs 22 to 25 of that judgment, that the question whether an action for annulment has been brought within a 'reasonable period' requires account to be taken of all of the circumstances of the case, declared that the action brought by the members of staff concerned was inadmissible because of its late submission, without taking into consideration the particular circumstances of the case.

27 In so ruling, the General Court departed also from the case-law of the Court of Justice relating to the concept of a 'reasonable period', to which however it referred in paragraph 25 of the judgment of 19 June 2012.

28 It is apparent from that case-law that, where the duration of a procedure is not set by a provision of European Union law, the 'reasonableness' of the period of time taken by the institution to adopt a measure at issue is to be appraised in the light of all of the circumstances specific to each case and, in particular, the importance of the case for the person concerned, its complexity and the conduct of the parties to the case (see, to that effect, Joined Cases C-238/99 P, C-244/99 P, C-245/99 P, C-247/99 P, C-250/99 P to C-252/99 P and C-254/99 P *Limburgse Vinyl Maatschappij and Others* v *Commission* [2002] ECR I-8375, paragraph 187).

29 The Court observed, in paragraph 192 of that judgment, that the reasonableness of a period cannot be determined by reference to a precise maximum limit determined in an abstract manner but, rather, must be appraised in the light of the specific circumstances of each case.

30 The duty on the institutions and the bodies of the European Union, in the context of administrative procedures, to allow for reasonable periods of time, which cannot be determined by reference to precise maximum limits determined in an abstract manner, has been confirmed subsequently by the Court (see, inter alia, Case C-293/05 *Commission* v *Italy* [2006] ECR I-122, paragraph 25 and case-law cited and Case C-321/09 P *Greece* v *Commission* [2011] ECR I-51, paragraphs 33 and 34).

31 That interpretation of the concept of 'reasonable period' is not, contrary to what the EIB and the European Commission contend in their written observations, valid solely where the issue is the determination of the reasonableness of the duration of an administrative or legal procedure that is not subject to a mandatory time-limit laid down by a rule of European Union law.

32 It is apparent from the case-law of the Court that the approach followed in the case-law referred to in paragraphs 28 to 30 above applies also to a matter that has a direct bearing on the admissibility of an action, namely, the period of time within which the applicant must request, from the institution concerned, the full text of a decision, which was neither published nor notified to him, in order to have precise knowledge of it with a view to seeking its annulment (see order of 10 November 2011 in Case C-626/10 P *Agapiou Joséphidès* v *Commission and EACEA*, paragraphs 127, 128, 130 and 131). Finally, to the same effect, the Court makes the admissibility of applications for recovery of costs put before the Courts of the European Union conditional on observance of a reasonable period of time between the delivery of the judgment that determined the apportionment of costs and the claim for reimbursement from the other party to the dispute (see order in Case 126/76 *Dietz* v *Commission* [1979] ECR 2131, paragraph 1).

33 It follows from the foregoing that, whilst it is true that the Court's case-law referred to in paragraphs 28 and 30 above concerns the reasonableness of the duration of an administrative

procedure where no provision of European Union law lays down a specific period of time for the conduct of that procedure, it is nevertheless appropriate to apply the concept of a 'reasonable period' in the same way to an action or an application in respect of which no provision of European Union law has prescribed the period of time within which that action or that application must be brought. In both cases, the Courts of the European Union must take into consideration the particular circumstances of the case.

34 Indeed, that interpretation, which ensures that the concept of a 'reasonable period' to which the Courts of the European Union have recourse in various situations is applied consistently, was adopted by the General Court in its case-law predating the judgment of 19 June 2012.

35 Thus, in the order of 15 September 2010 in Case T-157/09 P *Marcuccio* v *Commission*, in respect of which this Court considered that it was not necessary to carry out a review (see decision of 27 October 2010 in Case C-478/10 RX *Marcuccio* v *Commission*), the General Court pointed out, in paragraph 47 of that order, that, in the absence of a time-limit laid down in the applicable regulations for bringing a claim for damages arising from the employment relationship between an official and the institution by which he is employed, that claim had to be brought within a 'reasonable period', which is to be determined in the light of the circumstances of the case.

36 Further, in Case T-192/99 *Dunnett and Others* v *EIB* [2001] ECR II-813, only after consideration of the circumstances of the case did the General Court conclude, in paragraph 58 of that judgment, that '[i]n the light of the time-limits laid down in Articles 90 and 91 of the … Staff Regulations, it must be held that the applicants brought their action within a reasonable time' (see, as regards proceedings between the European Central Bank (ECB) and its members of staff, Case T-20/01 *Cerafogli and Others* v *ECB* [2001] ECR-SC I-A-235 and II-1075, paragraph 63).

37 Likewise, in the order in Case T-275/02 R *D* v *EIB* [2002] ECR-SC I-A-259 and II-1295, the President of the General Court, after pointing out, in paragraph 33 of that order, that a period of three months had, as a general rule, to be considered a reasonable period within which to bring an action for annulment of decisions of the EIB, and finding, in paragraph 38 of the same order, that the action had, in the case at issue, been brought five months after the adoption of the contested decision, concluded that the action was time-barred only after a review which led it to find, in paragraph 39 of that order, that the applicant had not put forward any special circumstance such as to justify that period of three months being exceeded and to outweigh the requirement of legal certainty.

38 It should be noted that the interpretation of the concept of a 'reasonable period' adopted in paragraphs 33 and 34 above does not mean, contrary to what the EIB suggests in its written observations, that the legality of the measures adopted by that body may be called into question indefinitely, since an application of that concept in accordance with the case-law of the Court is intended precisely to preclude the possibility that the Courts of the European Union should examine the substance of an action which is brought within a period regarded as unreasonable.

39 The interpretation adopted is likewise not, contrary to what the EIB contends in its written observations, invalidated by Case C-70/88 *Parliament* v *Council* [1990] ECR I-2041, in which the Court accepted that the European Parliament was entitled to bring an action for annulment before it, even though under Article 173 of the EEC Treaty (which became Article 173 EC, which in turn became, after amendment, Article 230 EC) the European Parliament did not have the right to bring such an action for annulment. In that case, the two-month time-limit set by that article for bringing an action had necessarily to apply equally strictly both to the Parliament and

to the other institutions mentioned. By contrast, in this case, where Article 41 of the EIB Staff Regulations does not set a time-limit for bringing an action but merely establishes the jurisdiction of the Courts of the European Union in disputes between the EIB and its members of staff, the Courts of the European Union are, those regulations being silent on the point, required to apply the concept of a reasonable period. That concept, which requires that account is taken of all the circumstances of the case, cannot therefore be regarded as a specific limitation period. Consequently, the period of three months laid down in Article 91(3) of the Staff Regulations cannot be applied by analogy as a limitation period to the members of staff of the EIB when they bring an action for annulment of an EIB measure adversely affecting them.

40 As regards, lastly, the question whether the General Court undermined the right to an effective remedy by ruling that the consequence of exceeding the reasonable period within which the members of staff are to bring an action is that the action is time-barred, it should be recalled that the principle of effective judicial protection is a general principle of European Union law to which expression is now given by Article 47 of the Charter (see Case C-389/10 P *KME Germany and Others* v *Commission* [2011] ECR I-13125, paragraph 119 and case-law cited).

41 The first paragraph of Article 47 of the Charter provides that everyone whose rights and freedoms guaranteed by European Union law are violated has the right to an effective remedy before a tribunal in compliance with the conditions laid down in that article. Under the second paragraph of that article, everyone is entitled to a fair and public hearing within a reasonable time by an independent and impartial tribunal previously established by law.

42 According to the explanations relating to that article, which, in accordance with the third subparagraph of Article 6(1) TEU and Article 52(7) of the Charter, have to be taken into consideration for the interpretation of the Charter, the first paragraph of Article 47 of the Charter is based on Article 13 of the European Convention for the Protection of Human Rights and Fundamental Freedoms, signed in Rome on 4 November 1950, the 'ECHR'), and the second paragraph of Article 47 corresponds to Article 6(1) of the ECHR.

43 According to the case-law of the European Court of Human Rights on the interpretation of Article 6(1) of the ECHR, to which reference must be made in accordance with Article 52(3) of the Charter, the 'right to a court' is not absolute. The exercise of that right is subject to limitations, inter alia as to the conditions for the admissibility of an action. While the persons concerned should expect those rules to be applied, the application of such rules should nevertheless not prevent litigants from availing themselves of an available legal remedy (see, to this effect, judgment of the European Court of Human Rights, *Anastasakis v. Greece*, no. 41959/08, § 24, 6 December 2011).

44 In this case, in which the time-limit for the EIB members of staff bringing an action against the measures adversely affecting them has not been set beforehand by a rule of European Union law, nor limited under Article 52(1) of the Charter, it is common ground that the members of staff concerned, in the light of the case-law of the Court relating to the application of the concept of a 'reasonable period', were entitled to expect that the General Court would simply apply that case-law in order to decide on the admissibility of that action rather than impose a pre-determined limitation period on their action.

45 That distortion of the concept of a reasonable period meant the members of staff concerned were unable to defend their rights relating to their remuneration by means of an effective action before a tribunal in accordance with the conditions laid down by Article 47 of the Charter.

46 In the light of the foregoing, the General Court must be considered to have misinterpreted the concept of a 'reasonable period' as it results from the case-law referred to in paragraphs 28 to 30 and 32 above and, consequently, to have fundamentally altered the very essence of the concept

of a reasonable period by holding that, in the present case, 'a rule of law' had to be applied, where the strict application of that rule produces an outcome that is contrary to the outcome emerging from the General Court's own case-law.

Whether the unity or consistency of European Union law is affected

47 The General Court, by holding in its judgment of 19 June 2012 that a period for bringing an action not laid down by primary or secondary European Union law, such as that applicable to an action brought by EIB members of staff for annulment of an EIB measure adversely affecting them, is a period of three months, and that the automatic consequence of that period being exceeded is that the action is out of time and, therefore, inadmissible, adopted an interpretation that is incompatible with the case-law of the Court, according to which the reasonableness of such a period has to be appraised in the light of the particular circumstances of each case.

48 It is necessary, therefore, to consider whether the judgment of 19 June 2012 affects the unity or consistency of European Union law and if so, to what extent.

49 In that connection, account must be taken of the following four aspects of the case.

50 First, the judgment of 19 June 2012 is the first decision of the General Court whereby it has dismissed an appeal against an order of the Civil Service Tribunal which itself dismissed an action for annulment brought after the expiry of a time-limit as being inadmissible by reason of its being out of time, but has failed to take account of all the circumstances of the case. It could therefore constitute a precedent for future cases (see, by analogy, Case C-197/09 RX-II *Review M* v *EMEA* [2009] ECR I-12033, paragraph 62).

51 Secondly, as regards the concept of a 'reasonable period', the General Court departed from the established case-law of the Court of Justice, as pointed out in particular in paragraphs 28 to 30 and 32 above (see, by analogy, *Review M* v *EMEA*, paragraph 63).

52 Thirdly, the errors of the General Court relate to a procedural concept which does not pertain solely to the law relating to the employment of European Union officials but is applicable regardless of the matter at issue (see, by analogy, *Review M* v *EMEA*, paragraph 64).

53 Fourthly and lastly, the concept of a 'reasonable period' and the principle of effective judicial protection which the General Court misinterpreted occupy an important position in the legal order of the European Union (see, by analogy, *Review M* v *EMEA*, paragraph 65). In particular, the right to an effective remedy before a tribunal guaranteed by Article 47 of the Charter and the provisions of the Treaties have, under Article 6 TEU, the same legal value.

54 In view of those circumstances, considered as a whole, it must be held that the judgment of 19 June 2012 affects the consistency of European Union law in that the General Court, as an appeal court, interpreted the concept of a 'reasonable period' in such a way that the action by the members of staff concerned was dismissed as being inadmissible, with no regard being paid to the particular circumstances of the case.

55 In those circumstances, all that remains is to determine the implications of the fact that the consistency of European Union law is affected.

56 The first paragraph of Article 62b of the Statute of the Court of Justice of the European Union provides that if the Court of Justice finds that the decision of the General Court affects the consistency of European Union law, it is to refer the case back to the General Court, which is to be bound by the points of law decided by the Court of Justice. In referring the case back, the

Court of Justice may also state which of the effects of the decision of the General Court are to be considered definitive in respect of the parties to the litigation. In exceptional cases, the Court of Justice can itself give final judgment if, having regard to the result of the review, the outcome of the proceedings flows from the findings of fact on which the decision of the General Court was based.

57 It follows that the Court cannot confine itself to finding that the unity or consistency of European Union law is affected without stating the implications of that finding as regards the dispute in question. In the circumstances of this case, for the reasons set out in paragraph 54 above, the judgment of 19 June 2012 must be set aside.

58 In the present case, given that the consistency of European Union law is affected as a result of a misinterpretation of the concept of a 'reasonable period' and of the failure to take full account of the principle of effective judicial protection, the definitive answer to the question of the admissibility of the action brought by the members of staff concerned does not flow from the findings of fact on which the judgment of 19 June 2012 is based and consequently, the Court of Justice cannot itself give final judgment in the proceedings, in accordance with the third sentence of the first paragraph of Article 62b of the Statute of the Court of Justice.

59 It is, therefore, necessary to refer the case back to the General Court and not, as the members of staff concerned claim, back to the Civil Service Tribunal, for the purposes of the appraisal, in the light of all the circumstances of the particular case, of the reasonableness of the period within which those members of staff brought their action before the Civil Service Tribunal.

Costs

60 Under Article 195(6) of the Rules of Procedure of the Court of Justice, where the decision of the General Court which is subject to review was given under Article 256(2) TFEU, the Court of Justice is to make a decision as to costs.

61 Since there are no specific rules governing orders for costs in the case of a review procedure, the interested parties referred to in Article 23 of the Statute of the Court of Justice and the parties to the proceedings before the General Court who lodged pleadings or written observations before the Court of Justice concerning the questions covered by the review must be ordered to bear their own costs relating to the review procedure.

On those grounds, the Court (Fourth Chamber) hereby:

1. **Declares that the judgment of the General Court of the European Union (Appeal Chamber) of 19 June 2012 in Case T-234/11 P *Arango Jaramillo and Others* v *EIB* affects the consistency of European Union law in so far as that court, as the appeal court, interpreted the concept of a 'reasonable period', in the context of an action brought by members of staff of the European Investment Bank (EIB) for annulment of a measure adopted by that bank adversely affecting those members, as a period of three months, which, if exceeded, entails automatically that the action is out of time and, therefore, inadmissible, without the Courts of the European Union being required to take into consideration the circumstances of the case;**

2. **Sets aside the judgment of the General Court of the European Union;**

3. **Refers the case back to the General Court of the European Union;**

4. **Orders Mr Oscar Orlando Arango Jaramillo and the 34 other members of staff of**

the European Investment Bank whose names are listed at the beginning of this judgment, and the European Investment Bank, the Portuguese Republic and the European Commission to bear their own costs relating to the review procedure.

[Signatures]

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* Language of the case: French.