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#### INFORMATION NOTE

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From: Legal Service  
To: Permanent Representatives Committee (Part 2)  
Subject: Case before the General Court of Justice of the European Union  
- Case T-619/19 (KF v SatCen) - Intervention of the Council

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1. The Registrar of the General Court notified to the Council on 3 October 2019 an Application brought by a former member of the staff of the EU Satellite Centre (SatCen) against the SatCen (Case T-619/19, *KF v SatCen*) requesting that the General Court:
  - annul on the basis of Article 263 TFEU the Decision of the Director of SatCen of 3 July 2019 to restart the administrative investigation; and find that SatCen has failed to comply with the judgment of the General Court in Case T-286/15, *KF v. SatCen*, thus infringing Article 266 TFEU;
  - annul the Decision of the Director of SatCen of 2 August 2019 rejecting the Applicant's administrative complaint against the decision of 3 July 2019;
  - find that Article 28 and Annex X of the 2017 SatCen Staff Regulations<sup>1</sup> (the provisions on the Appeals Board) are inapplicable, pursuant to Article 277 TFEU;

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<sup>1</sup> Council Decision (CFSP) 2017/824 of 15 May 2017 concerning the Staff Regulations of the European Union Satellite Centre, OJ L 123 of 16.05.2017, p.7.

- order SatCen to pay the Applicant compensation following the Judgment of 25 October 2018 in *Case T-286/15, KF v. SatCen*, for material damages in the form of lost salary, emoluments and entitlements from the date of the Applicant's removal from her post until the end of her contract, and for the non-material damage suffered, assessed provisionally *ex aequo et bono* at EUR 30 000;
  - order SatCen to pay interest on the unjustified late payment of EUR 10 000 as compensation for moral damages following the Judgment in *Case T-286/15, KF v. SatCen*;
  - order SatCen to bear its own costs and those incurred by the Applicant, together with interest of 8%.
2. The SatCen Staff Regulations were adopted by the Council,<sup>2</sup> on the basis of the Council Decision establishing the SatCen.<sup>3</sup> Article 28(6) of those Staff Regulations provides that “*Decisions of the Appeals Board shall be binding on both parties. There shall be no appeal from them*”. The Applicant has raised a plea of illegality against this provision, arguing that the Appeals Board does not meet the requirements of Article 47 of the Charter of Fundamental Rights and of Article 6 of the European Convention on Human Rights. In addition, she challenges several aspects of the composition of the Appeals Board and of the way it handled her case.
3. Furthermore, it should be recalled that the SatCen is a CFSP agency, and its Staff Regulations were adopted under a CFSP legal basis which does not provide for the jurisdiction of the Court of Justice.

In the light of Articles 24 TEU and 275 TFEU, which limit the Court's jurisdiction in CFSP matters, and the position which the Council has taken in similar cases regarding the jurisdiction of the Court, it is thus necessary that the Council intervene in *Case T-619/19* in order to contest the jurisdiction of the General Court and, in the alternative, to defend the legality of Article 28(6) of the SatCen Staff Regulations.

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<sup>2</sup> See above, footnote 1.

<sup>3</sup> Pursuant to Article 9(3) of Joint Action 2001/555/CFSP (as amended), “[*t*]he provisions relating to the staff of the Centre [*were to*] be adopted by the Council acting on a recommendation from the Director”.

4. The Director-General of the Council Legal Service has appointed Mr Alessandro VITRO and Mr Martin BAUER, Legal advisers in the Council Legal Service, as the Council's agents in this case.
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