

Pleas in law and main arguments

The applicants in this case, who were all recruited after 1 May 2004 as successful candidates in competitions for which notices had been published before that date, object to the alleged discrimination arising from the fact that their conditions of classification, in accordance with Article 12 of Annex XIII to Regulation (EC, Euratom) No 723/2004 amending the Staff Regulations of Officials, are different from those of the successful candidates in the same competitions who were recruited before that amendment of the Staff Regulations.

In support of their claims, the applicants plead:

- breach of the principle of equal treatment,
- infringement of Articles 31(1) and 29(1) of the Staff Regulations,
- infringement of Article 5(5) of the Staff Regulations,
- breach of the principle of the protection of legitimate expectations.

The applicants submit in that regard that it is apparent from Community case-law that the successful candidates in a competition are in a comparable situation and must therefore be accorded the same treatment. In addition, they submitted their applications with a view to being recruited to fill one of the vacant posts referred to in the respective notices of the competitions which they passed. They were therefore entitled to foster reasonable expectations of being recruited to the posts and at the grades specified in the notices of the competitions which they passed.

Action brought on 21 March 2005 by Carlos Andrés and Others against the European Central Bank

(Case T-131/05)

(2005/C 132/58)

(Language of the case: French)

An action against the European Central Bank was brought before the Court of First Instance of the European Communities on 21 March 2005 by Carlos Andrés, residing in Frankfurt am Main, and eight others, represented by Georges Vandersanden and Laure Levi, lawyers.

The applicants claim that the Court should:

- annul the applicants' salary statements for July 2004;
- order the defendant to pay damages to compensate for the harm suffered by the applicants, consisting of the award of EUR 5 000 per applicant on account of a loss of purchasing power since 1 July 2001, of arrears of pay corresponding to an increase in the applicants' salary of 1,86 % for the period from 1 July 2001 to 30 June 2002, 0,92 % for the period from 1 July 2002 to 30 June 2003 and 2,09 % for the period from 1 July 2003 to 30 June 2004, and of the application of interest to the amount of the applicants' arrears of salary from their respective due date until the date of actual payment. That rate of interest should be calculated on the basis of the rate set by the European Central Bank for the main refinancing operations, applicable during the period concerned, plus two points.
- order the defendant to pay all the costs.

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The subject-matter of this case is the salary increase contained in the applicants' salary statements for July 2004, which they claim was established in disregard of the obligation to consult the staff of the European Central Bank (ECB), and of the methods of calculation relating to general salary adjustments, as organised by an agreement concluded between the management and the staff ('the Memorandum of Understanding'). It is also disputed that the increase in question, applied following the judgment of the Court of First Instance of 20 November 2003 in Case T-63/02 *Cerafogli and Poloni v ECB* [2003] ECR-SC I-A-291 and II-1405, did not have retroactive effects for the years 2001, 2002 and 2003.

In support of their claims, the applicants plead:

- infringement both of Article 45 and 46 of the Conditions of Employment and of the Memorandum of Understanding, and breach of the principle of good administration;
 - breach of the duty to state reasons, as well as, in this instance, a manifest error of assessment. It is argued in this regard that the tables drawn up by the Bank to justify the proposed percentage salary increase in question are the result of an incorrect application of the methods of calculation;
 - breach of the principle of the protection of legitimate expectations.
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