

Action brought on 5 September 2005 — De Soeten v Council

(Case T-336/05)

(2005/C 296/58)

*Language of the case: French***Parties**

Applicant(s): Henders De Soeten (The Hague, Netherlands) (represented by: S. Orlandi, A. Coolen, J.-N. Louis, E. Marchal, lawyers)

Defendant(s): Council of the European Union

Form of order sought

The applicant(s) claim(s) that the Court should:

- annul the Council's decision rejecting the applicant's request for early retirement without any reduction in her pension rights;
- order the Council of the European Union to pay the costs.

Pleas in law and main arguments

The applicant is a former official of the Council, who has been in retirement since 1 July 2004. She submitted an application for entitlement to the measure referred to in Article 9(2) of Annex VIII to the Staff Regulations, which enables the Appointing Authority, in the interests of the service and on the basis of objective criteria and transparent procedures introduced by means of general implementing provisions, not to apply the reduction in pension provided for in Article 9(1)(b) to officials leaving the service before the age of 63.

By her action, the applicant contests the decision refusing to grant her that benefit. She submits that one of the candidates who qualified for that measure was assigned to the same department. The applicant therefore takes the view that the requirements of the service were the same in both cases and asserts that the above mentioned article and the general implementing provisions adopted by the Council have been infringed, since both her length of service and her merits were greater than those of the other candidate.

In addition, the applicant alleges that the Council committed a manifest error of assessment in so far as it held that the assessment of the criterion of the requirements of the service meant that regard should be had to the individual qualities of officials.

Action brought on 9 September 2005 — Raymond Claudel v Court of Auditors

(Case T-338/05)

(2005/C 296/59)

*Language of the case: French***Parties**

Applicant(s): Raymond Claudel (Merl, Luxembourg) (represented by: E. Boigelot, lawyer)

Defendant(s): Court of Auditors

Form of order sought

The applicant(s) claim(s) that the Court should:

- annul paragraph 17(d) of the decision of the European Court of Auditors of 11 November 2004 (DEC 183/04/DEF), which does not acknowledge that the applicant carried out the duties of Head of Unit on 30 April 2004;
- award damages for pecuniary and non-pecuniary harm evaluated on an equitable basis at EUR 5 000, subject to an increase during the proceedings;
- order the defendant to pay the costs in any event.

Pleas in law and main arguments

The applicant is an official at the Court of Auditors in charge of the external relations service. By his action, he disputes the decision of the Court of Auditors, in so far as it does not recognise that he exercises the duties of Head of Unit and, accordingly, does not recognise that he is entitled to the bonus provided for in Article 44 of the Staff Regulations, as amended after 1 May 2004.

In support of his action, the applicant claims that there has been a breach of Article 44 of the Staff Regulations and of Article 7 of Annex XIII thereto, and also a manifest error of assessment in the description of his post. He also claims that there has been a breach of the duty to state reasons, of the principle of equal treatment, of the duty to have regard for the welfare of officials and also of the principle of sound administration. The applicant also claims damages for the harm which he alleges to have been sustained.