

Pleas in law and main arguments

In support of his action, the applicant argues, inter alia, that: (i) the Appointing Authority's decisions were vitiated by a failure to give relevant reasons; (ii) the Secretary General of the Court of Auditors acted unlawfully in his capacity as Appointing Authority when he rejected the applicant's complaints, inasmuch as he had a personal interest such as to impair his independence; (iii) the Appointing Authority has performed its duties unlawfully since 1984; (iv) the applicant's superior performed his duties unlawfully; in breach inter alia of Article 7 and Article 11a (ex Article 14) of the Staff Regulations; (v) competition CC/LA/1/99 was prejudiced by a number of illegalities, for which there is new evidence; (vi) the 2006 Staff Committee elections are unlawful on a number of grounds; (vii) the promotion of Mr X stems from the interest of the applicant's hierarchical superior in obstructing the applicant's career.

Action brought on 26 January 2007 — Suvikas v Council

(Case F-6/07)

(2007/C 56/85)

Language of the case: French

Parties

Applicant: Risto Suvikas (Helsinki, Finland) (represented by: M.-A. Luxas, lawyer)

Defendant: Council of the European Union

Form of order sought

- annul the decision of the Advisory Selection Committee not to include the applicant's name on the list of the best candidates for selection concerning Council vacancy notice B/024;
- annul that list and the Council decisions to recruit the candidates included on it to the posts to be filled and not to recruit the applicant;
- order the Council to pay to the applicant, in compensation for the damage to his career, the difference for six years between the remuneration which he would have received if he had been recruited and that received on another basis, and EUR 25 000 for his non-material loss;

- order the defendant to pay the costs.

Pleas in law and main arguments

On 14 October 2005, the Council published a vacancy notice for eight temporary staff posts to work as Duty Officer. The applicant, who had already performed these functions as a national expert on secondment (SNE), applied. On 20 February 2006, he was informed that he had not been included on the short-list following the selection procedure.

In support of his action, the applicant relies on three pleas.

In the context of the first, he asserts the infringement of paragraph 4 of the notice and of the principles of objectivity, transparency and equal treatment. In particular, whilst external candidates were evaluated by the Advisory Selection Committee on the basis of interviews and the examination of their qualifications, candidates who had already worked as duty officers as SNEs were assessed on the basis of the opinions of their superiors as to the way that they had carried out their tasks. It is claimed that the Council has not proved that that alleged irregularity did not affect the results of the selection.

In the context of the second plea, the applicant relies on the infringement of his rights of defence in that, internal candidates having been assessed according to the procedure described above, it is claimed that the opinions of their hierarchical superiors should have been communicated to them in advance, so that they could defend themselves.

The third, based on the infringement of Article 9 and 12(1) of the Conditions of Employment of other Servants and the principles of impartiality, objectivity and equal treatment, is made up of three parts.

Under the first, the applicant asserts that certain members of the Selection Committee found themselves in a situation of conflict of interest in relation to certain candidates and that, because of this, certain candidates were assessed outside of the selection procedures provided for in the vacancy notice.

Under the second part, the applicant maintains that the Committee assessed the qualifications of the candidates without taking into account the level, duration and specific nature of their training and work experience.

Under the third part, the applicant asserts that, even if the assessment of internal candidates on the basis of the opinion of their hierarchical superiors could be accepted in principle, the procedure would still be irregular in so far as the said opinions were not correctly taken into account when the list of successful candidates was drawn up, particularly because of the abovementioned conflict of interest.