

- on the other hand to provide the person concerned with the information necessary to recognize whether or not the decision is well founded.
4. A delay in the notification of an individual decision to the person concerned cannot entail the annulment of that decision, since its notification is an act subsequent to the decision and therefore has no influence on its contents.
5. In order for an official to bring proceedings pursuant to Articles 90 and 91 of the Staff Regulations against a decision of the appointing authority, he must have a personal interest in the annulment of the measure in question.
- An official who cannot himself validly claim a vacant post, since he lacks the necessary qualifications, has no legitimate interest in the annulment of the appointment of another candidate to that post.

In Case 111/83

SANTO PICCIOLO, an official of the Office for Official Publications of the European Communities, assisted and represented by Victor Biel of the Luxembourg Bar, with an address for service in Luxembourg at the Chambers of Mr Biel, 18 A Rue des Glacis,

applicant,

v

EUROPEAN PARLIAMENT, represented by Manfred Peter, Head of its Legal and Administrative Questions Division, acting as Agent, assisted by Alex Bonn, of the Luxembourg Bar, with an address for service at the Chambers of Mr Bonn, 22 Côte d'Eich,

defendant,

APPLICATION for the annulment of the decision not to accept the applicant's candidature for a post of principal administrator (Career Bracket A 5/4) at the European Parliament and of the decision assigning the post to another candidate,

THE COURT (Second Chamber)

composed of: K. Bahlmann, President of Chamber, P. Pescatore and O. Due, Judges,

Advocate General: C. O. Lenz

Registrar: H. A. Rühl, Principal Administrator

gives the following

JUDGMENT

Facts and Issues

The facts of the case, the course of the procedure and the conclusions, submissions and arguments of the parties may be summarized as follows:

I — Facts and written procedure

1. A post of principal administrator (Career Bracket A 5/4) was vacant in the Treasury and Accounts Division of the Directorate General for Administration, Personnel and Finance of the European Parliament. The Parliament therefore published Vacancy Notice No 3599 of 10 May 1982 for recruitment by transfer or promotion, pursuant to Article 29 (1) (a) of the Staff Regulations of Officials. According to the notice the closing date for applications was 25 May 1982.

2. On 18 May 1982 the Parliament sent a second vacancy notice for the same post (Vacancy Notice No PE/A/75) to the other Community institutions with a view to filling the post by transfer, pursuant to Article 29 (1) (c) of the Staff Regulations. That notice repeated the text of Vacancy Notice No 3599, referred to above, word for word in regard to the duties and qualifications and experience required, that is:

Duties:

“Responsible, under the authority of the Accounting Officer, for all aspects of the Accounting Service, the Recovery

Service and the Service controlling imprest accounts.”

Qualifications and experience required:

“Very good knowledge of accounting procedures . . .;

Experience in the field of computerized accounting;

. . .”

According to Vacancy Notice No PE/A/75 the post was open to officials of the institutions

“in Grade A 5 or A 4 of the career bracket of Principal Administrator (transfer), or

who have been in Grade A 6 for at least two years on the expiry date of this notice (promotion).”

The closing date for applications in response to the notice was 3 June 1982.

3. With regard to Vacancy Notice No 3599 referred to above a single application was received from an official in Grade B 1 who stated that he wished to take part in an internal competition. The appointing authority took the view

that the urgency of filling the post made it impossible to organize such a competition and therefore did not accept the application.

The committee emphasized, however, that certain publicity measures should be adopted, including publication of the Vacancy Notice in the Official Journal.

4. With regard to Vacancy Notice No PE/A/75, the applicant, Santo Picciolo, an administrator in Grade A 6 (eligible for promotion) at the Publications Office of the European Communities in Luxembourg, submitted an application together with his *curriculum vitae*. The latter contained *inter alia* a description of the applicant's experience, in particular of his duties at the Publications Office in regard to budgetary, commercial and analytic accounting and computerization. According to the Parliament the applicant's was the only application received in reply to Vacancy Notice No PE/A/75.

7. On 1 July 1982 the Secretary General sent the resolution of the Joint Committee to the Director General for Administration, Personnel and Finance, emphasizing that "the very interesting suggestions of the Joint Committee in regard to publicity" could not be adopted "in view of the urgency and importance" of the recruitment in question.

5. The Secretary General of the Parliament decided, however, to adopt the recruitment procedure provided for in Article 29 (2) of the Staff Regulations in order to fill the post in question. To this end, by letter of 28 May 1982 he submitted to the Joint Committee a draft recruitment notice (No PE/5/S) which substantially followed the wording of Vacancy Notice No PE/A/75 with regard to the duties involved and the qualifications and experience required. It appears from the letter that Vacancy Notice No PE/5/S was "to be published in the Official Journal" and that the Secretary General had taken his decision "in view of the very specific nature of the post".

8. By decision of the President of the Parliament dated 6 August 1982 David Young was appointed to the vacant post as a probationary official in the third step of Grade A 5, with effect from 1 August 1982. It appears from the preamble to the decision that it was taken

" Having regard to Council Regulation (EEC, Euratom, ECSC) No 259/68 of 29 February 1968 laying down Staff Regulations of Officials of the European Communities and the Conditions of Employment of Other Servants of these Communities, and, in particular, to Head III, Chapter One;

Having regard to the decision of the Bureau of 12 December 1962 relating to the authority empowered to make appointments;

6. By letter of 28 June 1982 addressed to the Secretary General the Joint Committee stated that "recourse to the procedure of Article 29 (2) of the Staff Regulations is justified in view of the specific nature of the post in question".

Having regard to Notice of Vacancy No 3599 (Post No IV/A/123);

Having regard to the results of the competition;

On a proposal from the Secretary General.”

9. The applicant was not informed of the decision in regard to his application, and on 5 July 1982 he wrote to the President of the Parliament requesting consideration of his application. By letter from the Director of Personnel and Social Affairs dated 20 August 1982 he was informed that the Directorate of Finance and Data Processing had selected “another candidate”. The letter added:

“The department concerned took the view that your qualifications and experience did not meet the requirements set out in the transfer notice, particularly with regard to ‘experience in the field of computerized accounting’.

Since data processing at the European Parliament has already reached a very advanced stage and will be developed significantly in the near future, that experience is indispensable for appointment to the post.

...”

10. On 22 July 1982 the Staff Committee made inquiries of the President of the Parliament regarding certain matters which had arisen in the Treasury Division, and in particular the circumstances in which the post for which the applicant had applied was filled. The President replied on 13 September 1982, stating that “an offer was made to Mr Young on 5 July 1982”.

11. By an undated letter received by the Parliament on 18 November 1982 the applicant submitted to the appointing authority a complaint within the meaning of Article 90 (2) of the Staff Regulations.

12. The applicant received no reply to his complaint, and on 15 June 1983 he brought this action.

13. Upon hearing the report of the Judge-Rapporteur and the views of the Advocate General, the Court (Second Chamber) decided to open the oral procedure without any preparatory inquiry and asked the Parliament to reply to the questions set out below at Point IV.

II — Conclusions of the parties

1. The *applicant* claims that the Court should:

Declare this application admissible;

Declare that as regards the substance it is well founded and consequently annul the rejection of the applicant’s candidature;

Declare that Mr Young’s appointment under Articles 29 (2) of the Staff Regulations is illegal and consequently annul it;

In any event order the European Parliament to pay the whole of the costs.

2. The *European Parliament* claims that the Court should:

Declare that the action is neither admissible nor well founded;

Dismiss the action;

Award the costs in accordance with the applicable provisions of the Staff Regulations.

III — Submissions and arguments of the parties

A — Admissibility

1. The *European Parliament* emphasizes that the appointing authority committed no manifest error of assessment in deciding not to accept the applicant’s

application. As a result the appointment of the qualified candidate had no legal effect on the applicant's position and therefore could not constitute an act adversely affecting him. The applicant's claim that Mr Young's appointment should be annulled is therefore inadmissible since the applicant has no legal interest.

2. *The applicant* disputes the assertion that his claim for the annulment of Mr Young's appointment is inadmissible, even if his claim for the annulment of the decision not to accept his application is dismissed. He emphasizes that any unlawful act or even mere administrative error in the designation of the candidate appointed has a direct effect on his own legal position: as long as no one has been appointed, that is, he can legitimately hope to obtain the post in question.

B — Substance

1. The decision not to accept the applicant's application

(a) The applicant's arguments

The applicant argues that the decision rejecting his application, contained in the letter of the appointing authority of 20 August 1982, does not contain an adequate statement of the reasons on which it is based.

In the first place, the administration made its decision without examining the matter and in particular without contacting the applicant. As a result the assertion of the appointing authority that his application did not fulfil the conditions on qualifications set out in the vacancy notice is entirely unfounded.

Secondly, the reasons stated for such a decision must enable the unsuccessful candidate to recognize the possible grounds for his rejection and must inform him not only of the objective facts but in particular of the criteria on the basis of which the selection was made. A simple reference to the unfulfilled condition, such as the appointing authority gave, cannot meet the requirement regarding the statement of reasons. In this regard the applicant refers to the judgment of the Court of 3 November 1978 (*Salerno and Others v Commission*, Joined Cases 4, 19 and 28/78, [1978] ECR 2403).

Finally, the reasons should be stated at the same time as the decision not to accept the application is given. In this case the applicant was informed of his rejection only much later, upon his own insistence, some 50 days after the post had been offered to Mr Young.

Moreover, the statement of reasons, in so far as it is possible to refer to it as such, was erroneous and contrary to the facts. The applicant is acknowledged to have considerable knowledge of computerized accounting. In his present post he even deals with the computer accounting of the Parliament.

Furthermore, the trust which the applicant should legitimately have in the appointing authority was profoundly shaken and disappointed. In the applicant's view every candidate has the right to have his application carefully considered. Here there was not even a pretence at such consideration.

Finally, the administration acted contrary to the principle of proper administration which requires that all the factors on which a decision is based must be considered, as is necessary in order to give priority to the interest of the service,

as required pursuant to Article 7 of the Staff Regulations. The rapidity of Mr Young's selection prevented a proper screening of the candidates. This was a case not of proper administration but of mismanagement.

(b) The arguments of the European Parliament

The Parliament maintains that the reasons stated in support of the rejection of the applicant's application were appropriate and sufficient.

First, and above all, the administration was entirely able to assess, and in fact did assess, the applicant's qualifications on the basis of his application and supporting documents, in particular his *curriculum vitae*. Contact with the candidate would have provided no useful new or additional information.

Secondly, the administration informed the unsuccessful candidate not only of the fact that he had not been accepted but also of the reasons for the appointing authority's decision, regard being had to the nature and requirements of the post to be filled.

Finally, the applicant's submission alleging lateness of the notification that he had not been appointed is inadmissible since it was not raised in the application originating the proceedings. It should moreover be dismissed on its substance, since in view of the circumstances the notification sent to him cannot be considered to have been late. In any event, even if there was some delay, it did not adversely affect the applicant.

Furthermore, although the applicant stresses his knowledge of computer

accounting, he would himself admit that that is a matter which must be assessed by the administration, as in fact was done.

Finally, with regard to the applicant's submissions alleging the disregarding of his legitimate trust and the breach of the principle of proper administration, the Parliament considers that those arguments are in reality identical to the applicant's other submissions. The Parliament therefore refers to the arguments already set out above.

2. The appointment of Mr Young

(a) The applicant's arguments

The applicant emphasizes that for the recruitment of officials other than those in Grades A 1 and A 2 Article 29 (2) of the Staff Regulations provides that a recruitment procedure other than the competition procedure may be adopted only "in exceptional cases... for recruitment to posts which require special qualifications." Neither of these two conditions was fulfilled in this case. On the one hand the Parliament has not shown what makes this case an exception to the normal recruitment situation, since urgency does not in itself constitute the "exceptional case" referred to by the Staff Regulations. Moreover, there was a limited number of candidates, so that the selection board would have made a choice in a very short time. On the other hand, computerized accounting no longer constitutes a special qualification but is simply an area of higher studies open to any student of normal ability. The applicant adds that recourse to Article 29 (2) of the Staff Regulations is an exceptional solution which must be applied and interpreted restrictively.

Whilst it is true that the appointing authority has wide discretion, it is none the less bound to state reasons for its decision to apply Article 29 (2) of the Staff Regulations, to enable the Court to review its legality. The appointing authority in no way complied with this requirement.

Finally, although it is true that the Joint Committee (formally) approved the adoption of the procedure of Article 29 (2) of the Staff Regulations, its agreement was given subject to conditions regarding publication, with which the appointing authority did not comply. In this respect the applicant emphasizes that in the course of the exchange of memoranda and opinions the appointing authority did not refer to the alleged urgency.

(b) The arguments of the European Parliament

The Parliament considers that the applicant's claim for annulment alleging the absence of the conditions for the adoption of the procedure of Article 29 (2) of the Staff Regulations is inadmissible. In the Parliament's view it is for the administration to decide whether those conditions exist and more particularly to decide whether a procedure for filling a post represents an "exceptional case" and whether the vacant post requires "special qualifications". As in other cases where the administration has discretionary power, here the Court must review the legality of the procedure followed by the administration and thus the lawfulness of the methods adopted in the light of the Staff Regulations. In this case the

applicable legal provisions, that is, Article 29 (2) of the Staff Regulations, were correctly applied. In this regard the Parliament maintains that the special qualification necessary was set out and emphasized in the successive vacancy notices. Furthermore the Parliament refers in particular to the judgments of the Court of 26 May 1971 (*Bode v Commission*, Joined Cases 45 and 49/70, [1971] ECR 465) and of 29 October 1975 (*Marengo and Others v Commission*, Joined Cases 81 to 88/74, [1975] ECR 1247).

The applicant's submission is moreover ill-founded, since the Parliament was right to consider that posts in the field of data processing still constituted posts requiring special qualifications, justifying adoption of the recruitment procedure of Article 29 (2) of the Staff Regulations. Although computerized accounting is taught in some universities, that fact in no way shows that there would be a sufficient number of European Community employees or of potential candidates in a general competition with knowledge of this subject for it to be considered that the qualifications required for a post in this field are no longer special. In this regard the Parliament refers to the fact that in this case only two applications from officials of the institutions were received, the applications made pursuant to Vacancy Notices No 3599 and No PE/A/75.

Finally, the Parliament emphasizes that the opinion of the Joint Committee, given in its advisory capacity, did conclude that the adoption of the procedure under Article 29 (2) was justified, regard being had to the specific nature of the post in question. In the Parliament's view the conditions in which the special procedure is carried

out must be decided by the administration. In its judgment of 29 October 1975 referred to above the Court expressly declared that recourse to Article 29 (2) "is not subject to any condition as to publication but only to the circumstance that the recruitment is... to posts which require special qualifications". Moreover, such publication is not a practice in other Community institutions either. As a result the applicant's criticisms of the lack of publicity cannot be upheld.

there were other candidates for the Article 29 (2) procedure, whether the applicant's application was taken into account during that procedure, and, if more than one candidate was considered, by whom and how a selection was made among them;

5. Why the preamble to the decision of appointment of 6 August 1982 refers to the internal Vacancy Notice No 3599 and not to the decision to adopt the procedure under Article 29 (2).

IV — Questions put by the Court

The Court asked the Parliament to inform it in writing before 20 February 1984:

1. On what basis it considered that in spite of the information given in the *curriculum vitae* attached to his application, the applicant did not meet the conditions laid down in Vacancy Notice No PE/A/75;
2. When, how and for what reasons the Parliament took the decision to apply the recruitment procedure provided for in Article 29 (2) of the Staff Regulations;
3. If the notice of recruitment, of which a draft was supplied to the Joint Committee, was formally adopted, (a) in what form it was adopted and (b) whether it was the subject of any publication;
4. Whether the candidate appointed had himself made application, whether

By letter of 17 February 1984 the Parliament replied to the questions put by the Court. In its reply the Parliament notes in particular that at the time when the vacant post of principal administrator applied for by the applicant, and the subject-matter of these proceedings, was being filled, the Treasury-Accounts Division faced certain problems of personnel and of organization. Thus, as a result of changes, the division in question had lost the assistance of two capable employees who had held positions of responsibility. It was therefore necessary to fill the vacant post as soon as possible. Furthermore, in a special report not long before, the Court of Auditors had severely criticized the work of the Treasury-Accounts Division, going as far as to suggest disciplinary action against certain officials of the division, and had recommended that the appointing authority review and re-organize the work of the division. In view of those difficult problems of personnel and of organization the procedure for filling the vacant post took on particular importance. The appointing authority had to consider and assess all the possibilities offered by the Staff Regulations of Officials.

With regard to the five questions put by the Court the Parliament makes in particular the following observations:

1. It was on the basis of the information provided by the applicant in his *curriculum vitae* that the selection committee appointed for the recruitment in question considered that the candidate did not fulfil the essential qualification of “experience in the field of computerized accounting”, required in the vacancy notice. Even if a certain knowledge of accounting procedures could be deduced from the *curriculum vitae*, it could not be considered sufficient in the light of the vacancy notice, which required a very good knowledge of those procedures.

The experience acquired at the Office for Official Publications, where Mr Picciolo was responsible for receipts, was not considered sufficient, since the corresponding tasks at the European Parliament are entrusted to an employee in Grade B 1.

2. As soon as the post of principal administrator in question became vacant, and in view of the difficulties of filling it referred to above, the appointing authority considered the possibility of the two recruitment procedures, the ordinary one provided for by Article 29 (1) of the Staff Regulations and the extraordinary one made available by Article 29 (2). With regard to the latter, the appointing authority was convinced that the conditions required by the Staff Regulations were in fact met. It was a matter of filling a post which required special qualifications in the form of particular knowledge linked to experience in a very specialized field. Furthermore the particular nature of the vacancy made its filling an “exceptional case” within the meaning of paragraph

(2), and so from the administrative point of view the application of that paragraph was essential.

None the less the appointing authority wished also to take advantage of any possibilities of recruitment pursuant to Article 29 (1) of the Staff Regulations, in inviting applications from qualified candidates.

3. (a) After discussion of the problem, leading to the conclusion that recourse to the procedure of Article 29 (2) of the Staff Regulations was not only permissible but was necessary, that procedure was instituted by the competent authority, in this case the Secretary General, who submitted a draft recruitment notice (No PE/5/S) to the Joint Committee. After obtaining the opinion of the Joint Committee the Secretary General decided, by a memorandum of 1 July 1982, to carry through the procedure on that recruitment notice, but did not follow the Joint Committee’s suggestions with reference to publicity.

(b) The Secretary General’s memorandum emphasized the “urgency and importance of the recruitment” which in his view made publication impracticable. The concise terms thus used in the decision referred to the circumstances of the problem set out briefly above.

It was for this reason that the recruitment notice was not published at all.

4. (a) The candidate appointed did himself make that application.

(b) The applications of other candidates were considered in the course of the procedure under Article 29 (2).

(c) Since the procedure followed on the basis of Vacancy Notice No PE/A/75 and that followed on the basis of recruitment notice No PE/5/S pursuant to Article 29 (2) overlapped after a certain point, the applicant's application was considered at the same time as the applications received in the procedure pursuant to Article 29 (2).

(d) The selection was made by an informal selection committee. The committee first examined the applicant's files. Subsequently, on the basis of that examination, it decided whether applicants should be called for an interview.

In Mr Picciolo's case the committee decided, on the basis of the considerations set out above (reply to the Court's first question), that an interview

with him would not provide further information.

5. According to an established practice of the institution decisions of appointment refer to the first notice declaring the post vacant.

Such a practice is open to criticism, especially where the appointing authority subsequently adopts the exceptional procedure of Article 29 (2), issuing a special recruitment notice, as was the case here.

V — Oral Procedure

At the sitting on 15 March 1984 Mr Picciolo, represented by V. Biel, and the European Parliament, represented by A. Bonn, presented oral argument.

The Advocate General delivered his opinion at the sitting on 12 April 1984.

Decision

1 By application lodged at the Court Registry on 15 June 1983, Santo Picciolo, an official of the Commission of the European Communities, brought proceedings primarily for the annulment of two decisions of the European Parliament, one rejecting the applicant's application for a post of principal administrator, the other appointing another candidate pursuant to Article 29 (2) of the Staff Regulations of Officials.

2 It appears from the case-file that a post of principal administrator (Career Bracket A 5/4) was vacant in the Treasury-Accounts Division of the Direc-

torate General for Administration, Personnel and Finance of the European Parliament (hereinafter referred to as “the Parliament”) and that the Parliament issued Vacancy Notice No 3599 of 10 May 1982, opening the procedure for the filling of that post by transfer or by promotion, pursuant to Article 29 (1) (a) of the Staff Regulations. With regard to the duties to be carried out and the qualifications and experience required, it appears from the notice that the official in question was to be “responsible under the authority of the Accounting Officer for all aspects of the Accounting Service, the Recovery Service and the Service controlling imprest accounts”, and that he must have *inter alia* “very good knowledge of accounting procedures” and “experience in the field of computerized accounting”.

- 3 Without waiting until the closing date for applications, however, on 18 May 1982 the Parliament sent to the other Community institutions a second vacancy notice, No PE/A/75, pursuant to Article 29 (1) (c) of the Staff Regulations, with a view to filling the post by transfer from another institution. With regard to the nature of the duties and the qualifications and experience required that notice repeated the wording of Notice No 3599 referred to above.

- 4 The closing date for applications under Vacancy Notice No PE/A/75 was 3 June 1982. By letter of 28 May 1982, the Secretary General of the Parliament informed the Joint Committee that “in view of the very specific nature of the post” he had “decided to adopt the procedure provided for in Article 29 (2) of the Staff Regulations”. He therefore submitted to the committee a draft recruitment notice (No PE/5/S) which also essentially repeated the wording of the previous notices with regard to the duties to be carried out and the qualifications and experience required.

- 5 By letter of 28 June 1982 the Joint Committee declared that recourse to the procedure provided for in Article 29 (2) of the Staff Regulations was justified in the circumstances; it emphasized however that certain publicity measures should be taken, including the publication of the vacancy notice in the Official Journal. No such publication took place, however.

- 6 The first two vacancy notices, Notices No 3599 and No PE/A/75, elicited only two applications. In regard to Vacancy Notice No 3599 only one official, in Category B 1, made application, indicating the wish to take part in an internal competition. Under Vacancy Notice No PE/A/75 the only application received was that made on 27 May 1982 by the applicant, an administrator in Grade A 6 (eligible for promotion) at the Office for Official Publications of the European Communities, in Luxembourg. The applicant attached to his application a *curriculum vitae* containing *inter alia* a fairly detailed description of his experience before taking up duty with the Communities, as well as his work in the Office of Official Publications in the field of budgetary, commercial and analytical accounting. With regard to his work in the field of data processing, the applicant referred in particular to his role in the setting up of the "Sagap-2" system.
- 7 Not having been informed of the progress of the recruitment procedure, on 5 July 1982 the applicant wrote to the President of the Parliament requesting consideration of his application. By letter of 20 August 1982 the Parliament replied that the Finance and Data Processing Directorate had selected another candidate. The letter added:

"The department concerned took the view that your qualifications and experience did not meet the requirements set out in the transfer notice, particularly with regard to 'experience in the field of computerized accounting'.

Since data processing at the European Parliament has already reached a very advanced stage and will be developed significantly in the near future, that experience is indispensable for appointment to the post."

- 8 It appears in fact that as early as 5 July 1982 the post in question had been offered to another candidate according to the procedure provided for in Article 29 (2) of the Staff Regulations. By decision of the President of the Parliament of 6 August 1982 that candidate was appointed to the vacant post as a probationary official in Grade A 5 with effect from 1 August 1982.

- 9 On 18 November 1982 the applicant lodged a complaint against the decisions rejecting his application and appointing the other candidate. Since he received no reply to his complaint he brought these proceedings.

The claim for annulment of the decision not to accept the applicant's application

- 10 The applicant first maintains that in rejecting his application the administration reached a decision without examining the matter and in particular without making contact with him. Every candidate has the right, he says, to have his application carefully considered. Here there was not even a pretence of consideration, since the rapidity of the selection prevented a proper examination of the candidates. As a result the trust which the applicant should legitimately have in the appointing authority was profoundly shaken and disappointed. The appointing authority breached the principle of proper administration, and its assertion that the applicant's application did not meet the qualifications required by the vacancy notice was entirely without foundation.
- 11 According to the Parliament the administration was perfectly able to assess the applicant's qualifications on the basis of his application and supporting documents, in particular his *curriculum vitae*, and did in fact do so. Contact with the applicant could not have provided new or supplementary information.
- 12 In reply to the questions put by the Court the Parliament stated that the applicant's application was considered at the same time as the applications made under the procedure pursuant to Article 29 (2) of the Staff Regulations. The selection was made by an informal selection committee which first examined the candidates' files. On the basis of that examination the committee decided whether or not to call candidates for an interview. In the applicant's case the committee decided that he did not fulfil the essential qualification of "experience in the field of computerized accounting" and that an interview with him would not be likely to provide further information.

- 13 In this regard it should be emphasized that in a recruitment or transfer procedure it is incumbent upon each candidate to provide all the useful facts and information which will permit the appointing authority to decide whether or not he fulfils the conditions laid down in the vacancy notice. It is for that authority alone, or where appropriate the selection committee, to decide whether additional information should be obtained from candidates. In this case the applicant has not even indicated the information which in his view was necessary or useful as a supplement to that contained in his *curriculum vitae* and that already known to the selection committee with regard to the nature of the relevant work in his present department. As a result, since the applicant has in no way shown that his application was not seriously considered during the recruitment procedure, it must be held that his first submission is completely unfounded.
- 14 Secondly, the applicant argues that the reason stated for the decision not to accept his application, the assertion that his education and experience did not correspond to the required qualifications, was in any event incorrect. The applicant states that he is acknowledged to have considerable knowledge of computer accounting and that in his present post at the Commission he even deals with the computer accounting of the Parliament.
- 15 In its written pleadings the Parliament simply emphasized that the applicant's knowledge was to be assessed by the appointing authority and not by the applicant himself. In reply to the questions put by the Court, however, the Parliament stated that it was on the basis of the applicant's *curriculum vitae* that the selection committee decided that he did not fulfil the essential qualification of "experience in the field of computerized accounting". The experience acquired by the applicant in the post he then occupied was not considered sufficient, since similar tasks were at the Parliament entrusted to an employee in Grade B 1. With reference to the Sagap-2 system, to which the applicant referred in his *curriculum vitae*, it dealt only with computer addressing and was therefore not relevant to the qualifications required for the vacant post. The applicant did not dispute that information.

- 16 According to established case-law of the Court it is for the appointing authority to assess whether a candidate fulfils the conditions required by the vacancy notice, and that assessment may be questioned only in the event of manifest error.
- 17 In view of the details provided by the Parliament concerning the applicant's merits in relation to the qualifications required for the post in question as regards experience in the field of computerized accounting, it does not appear that the Parliament committed any error of assessment, much less a manifest error, in considering that the applicant did not fulfil the conditions of the vacancy notice in that respect. As a result the applicant's second submission must be rejected.
- 18 The applicant further argues that no sufficient reasons were stated in the decision not to accept his application. The statement of grounds must, he says, enable the rejected candidate to recognize the possible reasons for his rejection and inform him of the objective facts on which the selection was based. In this case the only reasons stated for the rejection amounted to the simple reference to a condition alleged not to have been fulfilled.
- 19 According to the Parliament the reasons stated in support of the decision not to accept the applicant's application were appropriate and sufficient. The administration informed the applicant not only of the fact that he had not been appointed but also of the reasons on which that decision was based in view of the circumstances and of the requirements of the post to be filled.
- 20 In this regard reference must be made to the settled case-law of the Court according to which the obligation to state the reasons on which a decision adversely affecting an official is based is intended on the one hand to enable the Court to review the legality of the decision and on the other hand to provide the person concerned with the information necessary to recognize whether or not the decision is well founded.
- 21 In this case the Parliament informed the applicant that he did not fulfil the condition concerning experience in the field of computerized accounting. It

also explained to him why such experience was indispensable for appointment to the post in question, but did not state in detail why the experience to which the applicant had referred in his application was not sufficient in that respect.

- 22 The possibility cannot be excluded that that statement of reasons may have caused the applicant to have doubts whether the rejection was well founded. However, the details given by the Parliament in reply to the questions put by the Court have enabled the Court to exercise its power of judicial review and to check the correctness of the reasons stated. In those circumstances the conciseness of the reasons is not sufficient to justify the annulment of the measure in question.
- 23 Finally, in his reply the applicant argues that the decision not to accept his application and the statement of reasons on which that decision was based were notified to him late. It was only upon his own insistence that he was informed that he had been rejected, 50 days after the post had been offered to another candidate.
- 24 According to the Parliament this submission of the applicant must be rejected inasmuch as it was not made in the application originating the proceedings. In any event the notification cannot be considered to have been late, and even if it was, that fact had no adverse effect on the applicant.
- 25 Even though the notification was in fact made after an unfortunate delay, it is not necessary to rule on the question of the lateness of the submission but it is sufficient to refer to the case-law of the Court according to which a delay in the notification of an individual decision to the person concerned cannot entail the annulment of that decision, since its notification is an act subsequent to the decision and therefore has no influence on its contents (see the judgment of 29. 10. 1981, *Arning v Commission*, Case 125/80, [1981] ECR 2539).
- 26 Since all the submissions put forward by the applicant in support of his claim for the annulment of the decision rejecting his application have proved unfounded, the claim must be dismissed.

The claim for annulment of the appointment of another candidate

27 In this respect the applicant argues that the conditions governing the opening of the special recruitment procedure referred to in Article 29 (2) of the Staff Regulations were not met in this case and that the appointment must therefore be annulled.

28 The Parliament takes the view that this claim is inadmissible. Since the applicant did not himself fulfil the conditions for appointment the appointment of another candidate cannot adversely affect him. Moreover the claim is also unfounded since all the conditions of application provided for in Article 29 (2) were in fact met.

29 According to well-established case-law, in order for an official to bring proceedings pursuant to Articles 90 and 91 of the Staff Regulations against a decision of the appointing authority, he must have a personal interest in the annulment of the measure in question (see the judgment of 29. 10. 1975, *Marenco and Others v Commission*, Joined Cases 81 to 88/74, [1975] ECR 1247, and the judgment of 30. 6. 1983, *Schloh v Council*, Case 85/82, [1983] ECR 2105). Since all the objections raised by the applicant in regard to the decision of the appointing authority not to accept his application for the vacant post have been shown to be ill-founded, the applicant has no legitimate interest in the annulment of the appointment of another candidate to that post, which he cannot himself validly claim. This claim of the applicant must therefore be dismissed as inadmissible.

Costs

30 Although the applicant has failed in all his submissions it is none the less necessary, in making an order as to costs, to take into account the considerations referred to above regarding the conciseness of the statement of the reasons on which the decision of the appointing authority not to accept the applicant's application was based. It was only as a result of the replies provided by the Parliament to the questions put by the Court that it was possible for the applicant fully to assess the reasons stated. In those circumstances the applicant cannot be criticized for having brought the matter before the Court in order to obtain a review of the legality of the decisions of the appointing authority in question.

31 It is therefore appropriate to apply Article 69 (3) of the Rules of Procedure, according to which the Court may order even a successful party to pay costs in proceedings which have arisen as a result of its own conduct.

On those grounds,

THE COURT (Second Chamber)

hereby:

1. Dismisses the application;
2. Orders the European Parliament to pay the whole of the costs, including those of the applicant.

Bahlmann

Pescatore

Due

Delivered in open court in Luxembourg on 30 May 1984.

For the Registrar

H. A. Rühl

Principal Administrator

K. Bahlmann

President of the Second Chamber

OPINION OF MR ADVOCATE GENERAL LENZ
DELIVERED ON 12 APRIL 1984 ¹

*Mr President,
Members of the Court,*

The proceedings with which I am to deal today concern the filling of a post of principal administrator (Career Bracket A 5/A 4) in the Treasury-Accounts Division of the Directorate General for

Administration, Personnel and Finance of the European Parliament.

A — The procedure for filling the post was opened by the issuing of Notice No 3599 on 10 May 1982, pursuant to Article 29 (1) (a) of the Staff Regulations. In that notice the duties associated with the post were defined as follows:

¹ — Translated from the German.