

Case 276/85

Georges Cladakis

v

Commission of the European Communities

(Official — Adjustment of grading)

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Summary of the Judgment

1. *Officials — Actions — Periods allowed — Time from which period starts to run — Date of notification of the decision on a complaint made through official channels — Computation (Staff Regulations, Art. 91 (3); Rules of Procedure, Arts 80 (1) and 81 (1))*
2. *Procedure — Time allowed for commencing proceedings — Barring of proceedings — Unforeseeable circumstances or force majeure — Limits (Statute of the Court of Justice of the EEC, second paragraph of Article 42)*

1. By virtue of Articles 80 (1) and 81 (1) of the Rules of Procedure, the three-month period allowed by Article 91 (3) of the Staff Regulations for bringing an action against the decision adopted on a complaint made through official channels does not begin to run, where that decision is notified, until the day following the receipt by the person concerned of notification of the measure in question, regardless of the hour of day when this occurs; being expressed in calendar months, the period expires at

the end of the day which, in the third month, bears the same number as the day from which time was set running, that is to say the day of notification.

2. The strict application of Community rules on procedural time-limits serves the requirement of legal certainty and the need to avoid any discrimination or arbitrary treatment in the administration of justice. Accordingly, there can be no derogation from those rules unless there is a quite exceptional case of unfore-

seeable circumstances or *force majeure*, as required by the second paragraph of Article 42 of the Protocol on the Statute of the Court of Justice of the EEC.

The fact that an official did not have an official text of the Staff Regulations

available to him in his own language cannot constitute a case of unforeseeable circumstances or *force majeure* when it was available in all the other official languages of the Community, and the official must have had a satisfactory knowledge of at least one of them.

REPORT FOR THE HEARING delivered in Case 276/85*

I — Facts and written procedure

Legal context of the case

1. Article 1 (1) of Council Regulation No 662/82 of 22 March 1982 introducing special and temporary measures applicable to the recruitment of officials of the European Communities in consequence of the accession of the Hellenic Republic to the Communities (Official Journal 1982, L 78, p. 1) provides that, subject to certain conditions and for a limited period, vacant posts may be filled by Greek nationals notwithstanding various provisions of the Staff Regulations. Article 1 (2) thereof stipulates: 'Appointments to Grades ... B 1, B 2, [and] B 3 ... shall be made after a competition on the basis of qualifications organized in accordance with Annex III to the Staff Regulations.'

2. According to the Commission's 'Decision on the Criteria Applicable to Grade and

Step Classification upon Recruitment' of 6 June 1973, published in March 1981, nine years of professional experience are required before an official may be classified in Grade B 3 (Article 2) whilst 14 years' experience are required for classification in Grade B 1 (Article 4). In the case of Grade B 2 the decision specifies: 'As the upper grades of career brackets B 3/B 2 [and others] ... are reserved for promotions within the career brackets, there shall be no recruitment to these grades.' (last paragraph of Article 3).

By a memorandum published in the Administrative Notices of 21 October 1983, the Director-General for Personnel and Administration informed staff that the Member of the Commission responsible for Personnel and Administration had adopted a new decision on the criteria applicable to grade and step classification upon recruitment, which cancelled and replaced the decision of 6 June 1973, mentioned above. The memorandum goes on to state that, exceptionally, any official graded under the old decision who feels that he has not been graded according to the criteria laid down

* Language of the Case: French.