

ORDER OF THE COURT OF FIRST INSTANCE (Second Chamber)
30 March 2000

Case T-33/99

Elvira Méndez Pinedo
v
European Central Bank

(Notice inviting applications for posts in the legal services of the European Central Bank – Action for annulment and for compensation – Inadmissibility)

Full text in Spanish II - 273

Application for: annulment of the notice inviting applications for posts in the legal services of the European Central Bank published in Official Journal C 159 A of 26 May 1998, together with a claim for compensation.

Held: The application is dismissed as inadmissible. The application for legal aid is dismissed. The parties shall bear their own costs.

Summary

1. Officials – Actions – Dispute between the European Central Bank and an individual concerning a notice inviting applications – Provisions governing remedies – Conditions of employment of the European Central Bank – Publication – Absence – Application by analogy of the Staff Regulations (Staff Regulations, Arts 90 and 91)

2. Officials – Actions – Dispute between the European Central Bank and an individual concerning a notice inviting applications – Seising of the Ombudsman before bringing an action – Submission of a complaint to the European Central Bank and lodging of an action before the Court of First Instance outside the periods prescribed for that purpose – Inadmissibility

3. Acts of the institutions – General obligation to inform addressees of remedies and time-limits – Absence – European Ombudsman – Obligation to inform complainants of remedies – Absence (Statute of the European Ombudsman, Art. 2(2))

1. The provisions of the conditions of employment of the European Central Bank on disputes between the Bank and its staff cannot be relied upon, for the purpose of assessing the admissibility of an action for annulment brought by an individual against a notice inviting applications issued by the Bank when they were not published before the date on which the action was brought. The Community judicature must therefore fill a gap in the system of remedies which is incompatible with the right to effective judicial protection by applying, by analogy, the provisions of the Staff Regulations on remedies to which the applicant referred.

(see paras 30 to 33)

See: C-212/94 *FMC and Others* [1996] ECR I-389, para. 58

2. An action by an individual for annulment of a notice inviting applications published by the European Central Bank is inadmissible where the applicant, after lodging a complaint with the Ombudsman, did not observe either the deadline for bringing an action for annulment or the deadline for lodging a complaint under the Staff Regulations.

The periods prescribed for bringing judicial proceedings or submitting administrative complaints are not interrupted by the seising of the Ombudsman.

(see paras 22, 24, 26 and 34)

3. In the absence of an express provision, the administrative or judicial authorities of the Community cannot be regarded as being under a general obligation to inform the persons concerned of the remedies available or of the conditions in which they may exercise them.

In that regard, although it is true that the Statute of the European Ombudsman provides, in particular in Article 2(5), that the Ombudsman may advise a person lodging a complaint to address it to another authority, there is no express provision requiring that he do so.

(see para. 36)

See: C-154/98 P *Guérin Automobiles v Commission* [1999] ECR I-1441, para. 13 et seq.