

Form of order sought

- annul the decision of the Appointing Authority of 26 April 2006 appointing the applicant as an official of the European Communities inasmuch as it determines his classification in grade AST 2, step 3;
- order the defendant to pay the costs.

Pleas in law and main arguments

By decision of 26 April 2006, the applicant, at the time a member of temporary staff of the Parliament classified in grade C*4, step 7, and successful candidate in an internal competition for clerical assistants (career bracket C4-5) No C/348, published before the entry into force of Council Regulation (EC, Euratom) No 723/2004 of 22 March 2004 amending the Staff Regulations of officials of the European Communities and the Conditions of Employment of other servants ⁽¹⁾, was appointed as an official and classified in grade AST 2, step 3.

In his action, the applicant asserts inter alia breach of the competition notice and of the principle of equality of treatment and of non-discrimination. In particular, he contests the administration's interpretation of Article 5(4) of Annex XIII of the Staff Regulations as meaning that the members of temporary staff who are appointed officials only have the right to retain their former grade and step in cases where the appointment entails promotion to a higher grade.

⁽¹⁾ OJ L 124 of 27.4.2004, p. 1.

Action brought on 28 March 2007 — Noworyta v Parliament

(Case F-30/07)

(2007/C 117/61)

Language of the case: French

Parties

Applicant: Lidia Noworyta (Brussels, Belgium) (represented by: S. Orlandi, A. Coolen, J.-N. Louis and E. Marchal, lawyers)

Defendant: European Parliament

Form of order sought

- annulment of the decision of the Appointing Authority of 28 April 2006 rejecting the proposal of the applicant's hierarchical superior of 20 October 2005 to grant her the fixed allowance in respect of overtime worked in special conditions within the meaning of Article 3 of Annex VI to the

Staff Regulations or any other allowance, either under Article 56a of 56b of the Staff Regulations

- an order that the defendant pay the costs.

Pleas in law and main arguments

In support of her action, the applicant pleads first, the infringement of the general principle according to which any worker must have fair working conditions, in particular in terms of working time and compensation or allowances for overtime worked or on account of special arrangements in the organisation of his or her working hours.

More specifically, she submits that, unlike Articles 56a and 56b of the Staff Regulations, Article 3 of Annex VI to the Staff Regulations does not make the granting of a fixed allowance in respect of overtime worked in special conditions subject to the condition that that overtime must be worked on a regular basis. In the applicant's view, the Appointing Authority erred in law by inserting that condition into the internal rules adopted on compensation for overtime.

The Appointing Authority also erred in law by stating that officials recruited as of 1 May 2004 are not entitled to such an allowance, even though that possibility was expressly referred to in Article 1 of the internal rules.

In addition, the applicant claims that the decision to deny her any compensation or allowance in respect of her special conditions of work infringes Article 56a and 56b of the Staff Regulations and the principle of equal treatment.

Lastly, in the applicant's opinion, the Parliament's position is inconsistent, since the Director General of the Directorate General for the Presidency stated that nobody on a telephone switchboard works overtime on a regular basis, while the Appointing Authority for its part claimed that a study was underway in order to examine the possibilities of harmonising working conditions in the department at issue precisely because of the atypical hours worked, which are outside of general/normal working hours.

Action brought on 2 April 2007 — Putterie-de-Beukelaer v Commission

(Case F-31/07)

(2007/C 117/62)

Language of the case: French

Parties

Applicant: Françoise Putterie-de-Beukelaer (XX) (represented by: E. Boigelot, lawyer)

Defendant: Commission of the European Communities

Form of order sought

- annulment of the applicant's Career Development Report ('CDR') concerning the period from 1 January 2005 to 31 December 2005, including appeal procedures and other decisions relating to them, and specifically of section 6.5, 'Potential', in so far as it does not accept that the applicant has the potential to carry out functions in category B*;
- order the defendant to pay the costs.

Pleas in law and main arguments

In support of her appeal, the applicant puts forward, first, the fact that the administration made manifest errors of assessment in so far as it did not accept that she had the potential to carry out functions in category B* for the purpose of the attestation procedure provided for in Article 10(3) of Annex XIII to the Staff Regulations of Officials of the European Communities ('the Staff Regulations'). In particular, in contrast to what was stated

in the applicant's CDR, her duties as head of computer training fall within the scope of category B*.

Secondly, the applicant alleges infringement of Article 26 of the Staff Regulations, of the principles of respect for the rights of the defence, transparency, the *audi alteram partem* rule and the principle of sound administration of staff. In particular, she submits that some documents used for the purposes of her appraisal were not communicated to her at the appropriate time.

Thirdly, the applicant raises the infringement of Article 25(2) of the Staff Regulations and of the duty to give reasons.

Fourthly, the applicant alleges the infringement of the principle of equal treatment of staff and non-discrimination, in so far as the duties carried out by a head of computer training, she submits, are assessed in different ways for the purposes of the attestation procedure depending on the directorates general and the hierarchical superiors.