

competition. According to that decision, the applicant's certificates and diplomas did not fulfil the conditions laid down in point III.B.2 of the competition notice, according to which candidates were required to have completed full university studies certified by a diploma (degree or equivalent).

The applicant considers that possession of the diploma in 'ingeniería técnica' presupposes full university studies certified by a diploma and that the selection board is imposing a requirement which does not appear in the wording of the vacancy notice.

In support of his claims, the applicant puts forward the following pleas in law:

- Breach of the principle of equal treatment,
- Infringement of Directive 89/48/EEC ⁽¹⁾, the provisions of which are considered applicable, by way of analogy, to any competition notice,
- Breach of the principle of proportionality, inasmuch as, in the applicant's view, the requirement to hold a long cycle diploma is neither necessary nor appropriate in order to achieve the objective pursued, which is simply that of recruiting into the A/LA category of the Community civil service individuals who have followed full university degree courses certified by a diploma,
- Breach of the principle of legal certainty and of legitimate expectations,
- Breach of the right of access to the Community public service.

The applicant further affirms that, in its judgment in Case T-82/92 Manuel Cortés Jiménez v. Commission [1994] ⁽²⁾, the Court of First Instance simply rejected the 'higher' nature of the 'ingeniero técnico' diploma without, however, thereby expressly rejecting the 'full' nature of that diploma.

The applicant also claims that the defendant has misused its power inasmuch as, in his view, the contested act forms part of a staff selection policy intended to prevent access by 'ingenieros técnicos' to the A/LA category.

⁽¹⁾ Council Directive of 21 December 1988 on a general system for the recognition of higher-education diplomas awarded on completion of professional education and training of at least three years' duration (OJ L 19, 24.1.1989, p. 16).

⁽²⁾ ECR II-237.

Action brought on 2 December 1997 by Benito Latino against the Commission of the European Communities
(Case T-300/97)

(98/C 41/47)

(Language of the case: French)

An action against the Commission of the European Communities was brought before the Court of First Instance of the European Communities on 2 December 1997 by Benito Latino, residing in Brussels, represented by Olivier Eben, of the Brussels Bar, 11 Rue Paul Emile Janson, Brussels.

The applicant claims that the Court should:

- order the Commission to pay, pursuant to Article 73 of the Staff Regulations and Article 14 of the Rules on the insurance of officials of the European Communities against the risk of accident and of occupational disease, a capital sum, based on the rate of permanent partial incapacity determined by the Court, in respect of the asbestosis contracted by the applicant,
- order the Commission to pay ECU 1 000 000 by way of compensation for the non-material damage suffered by the applicant,
- order the Commission to pay interest at the rate of 10 % per annum on the capital sum found by the Court to be payable in accordance with the rate of permanent partial incapacity determined pursuant to Articles 73 and 14 of the Staff Regulations, and on the capital sum of ECU 1 000 000, such interest to be calculated from 1 August 1997 until payment in full of that capital sum,
- annul, in so far as may be necessary, the decision of the Commission of 1 August 1997 refusing the applicant's request of 11 May 1997,
- order the Commission to pay all the costs.

Pleas in law and main arguments adduced in support:

The applicant, a former official who worked in the Berlaymont building in Brussels as an archivist from 1969 to 1991, has contracted an occupational disease, asbestosis. On 11 February 1997 the appointing authority decided to recognize the applicant as having a permanent partial incapacity (PPI) rate of 5 %, equivalent to a capital sum of Bfrs 639 114.

The applicant maintains that, in view of the seriousness of that mortal illness and the physical consequences resulting from it, which will totally reduce his quality of life, he should be awarded a PPI percentage reflecting with the seriousness of his illness. According to the applicant, the Commission is guilty of having required him to work in a building in which, between 1967 and 1969, the workers were exposed to the 'flaking' of 4 000 tonnes of asbestos on the south and west walls, despite the fact that:

- the Commission knew of, or could not in any event have been unaware of, the dangerous nature of asbestos generally, and, in particular, the danger which it represented for persons performing tasks of an administrative nature and archive work in a building contaminated with asbestos;
- the Commission knew that it lacked sufficient staff to monitor compliance with safety and hygiene standards generally and the protection measures applicable during the course of maintenance works.

The unlawfulness of the conduct in question also results from a disregard of the principles, rights and guarantees contained in the European Social Charter. Those principles, rights and guarantees constitute general principles of Community law with which the Community authorities are required to comply and which the Community judicature is required to monitor. On the basis of that Charter, the applicant claims that all workers are entitled to safety and hygiene at work, that all persons are entitled to the benefit of all such measures as will enable them to enjoy the best possible state of health and that it is necessary, in so far as may be possible, to prevent epidemic, endemic and other illnesses. In the present case, the applicant's rights were disregarded and no measures were taken to prevent diseases caused by contact with asbestos.

Removal from the register of T-173/96 ⁽¹⁾
(98/C 41/48)

(Language of the case: French)

By order of 5 December 1997, the President of the Second Chamber of the Court of First Instance of the European

Communities ordered the removal from the register of Case T-173/96: Teresa Maria Rodrigues Gomes de Oliveira v. Commission of the European Communities.

⁽¹⁾ OJ C 388, 21.12.1996.

Removal from the register of Joined Cases T-176/96 and T-108/97 ⁽¹⁾
(98/C 41/49)

(Language of the case: French)

By order of 4 December 1997, the President of the First Chamber of the Court of First Instance of the European Communities ordered the removal from the register of Joined Cases T-176/96 and T-108/97, Cornelis Volger v. European Parliament.

⁽¹⁾ OJ C 388, 21.12.1996 and OJ C 181, 14.6.1997.

Removal from the register of T-225/97 ⁽¹⁾
(98/C 41/50)

(Language of the case: French)

By order of 17 December 1997, the President of the Fourth Chamber of the Court of First Instance of the European Communities ordered the removal from the register of Case T-225/97: Asia Motor France SA, Jean-Michel Cesbron, Monin Automobiles SA and Europe Auto Service (EAS) SA v. Commission of the European Communities.

⁽¹⁾ OJ C 318, 18.10.1997.