

Pleas in law and main arguments

In support of her action, the applicant pleads failure to state reasons, breach of Article 45 of the Staff Regulations and infringement of the principle of non-discrimination, manifest errors of assessment, breach of the duty of care and infringement of the principle of sound administration, infringement of the principle of equality of opportunity and, finally, misuse of powers.

Action brought on 22 April 2003 by Robert Charles Schochaert against the Council of the European Union

(Case T-136/03)

(2003/C 146/77)

(Language of the case: French)

An action against the Council of the European Union was brought before the Court of First Instance of the European Communities on 22 April 2003 by Robert Charles Schochaert, residing in Brussels, represented by Jean A. Martin, avocat.

The applicant claims that the Court should:

- order the Council to pay to the applicant EUR 225 702,94 by way of compensation, and order it to pay the costs.

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The applicant, a former Council official, seeks by way of the present action to recover compensation in respect of the damage which he claims to have suffered through the defendant's refusal to promote him to Grade B 1 during the course of promotions from 1978 to 2000.

The applicant contends that the defendant has refused, since 1978, to promote him on the ground that his duties did not involve the exercise of responsibilities justifying promotion *vis-à-vis* other candidates for such promotion, this being a ground which, in the applicant's view, is unlawful and amounts to a misuse of power for which the Council must incur liability.

The applicant further alleges that he has been the victim of exclusion and non-physical harassment by a number of his hierarchical superiors.

Action brought on 28 April 2003 by Nuova Agricast S.r.l. against the Commission of the European Communities

(Case T-139/03)

(2003/C 146/78)

(Language of the case: Italian)

An action against the Commission of the European Communities was brought before the Court of First Instance of the European Communities on 28 April 2003 by Nuova Agricast S.r.l., represented by Michele Arcangelo Calabrese, avvocato.

The applicant claims that the Court should:

- Annul the contested measures;
- Order the European Commission to pay the costs.

Pleas in law and main arguments

By its action, the applicant company is challenging:

1. the Commission's letter *D/50721, COMP/G1 D(03)142/PI/cpb dated 3 February 2003 (concerning consultations with the authorities of the Member State which had drawn up the documents);
2. Commission document SG.B.2/MM D(2003) sent by fax on 14 March 2003;
3. the Commission's letter *D/51652, COMP/G1/PI/cpb D(03) dated 12 March 2003.

In support of its claims, the applicant submits as follows:

- by consulting the authorities of the Member State which had drawn up the documents requested, and in so doing even though it was already clear to it that the documents in issue were excluded from the right of access as being 'covered' by the exception 'inspections and investigations', the Commission breached the procedural guarantees conferred on individuals by Article 4(4) of Regulation (EC) No 1049/2001 of the European Parliament and of the Council of 30 May 2001 regarding public access to European Parliament, Council and Commission documents (OJ 2001 L 145 of 31 May 2001, p. 43) and the similarly-worded Article 5(2) of the relevant updating provisions. The Commission thus infringed its own