

**Action brought on 25 May 2005 by Gudrun Schulze
against the Commission of the European Communities**

(Case T-207/05)

(2005/C 193/60)

(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 25 May 2005 by Gudrun Schulze, residing in Brussels [(Belgium)], represented by Stéphane Rodrigues and Alice Jaume, lawyers.

The applicant claims that the Court should:

1. annul the decision of the appointing authority rejecting the applicant's complaint, in conjunction with the appointment decision adopted by the appointing authority on 11 October 2004, in so far as it determines her grade in accordance with Article 12(3) of Annex XIII to the Staff Regulations and her step in the grade pursuant to the current Article 32 of the Staff Regulations;
2. advise the appointing authority of the consequences of the annulment of the contested decisions, in particular the re-grading of the applicant to grade A*10, step 4 with retrospective effect from 16 June 2004, the date on which the appointment decision of 11 October 2004 took effect;
3. in the alternative, order the Commission to pay compensation for the damage suffered by the applicant as a result of not being graded at grade A*10, step 4 with effect from 16 June 2004, the date on which the appointment decision of 11 October 2004 took effect;
4. order the defendant to pay the costs.

Pleas in law and main arguments

Between March 2000 and December 2003, the applicant was employed at the Commission as a temporary staff member, initially at grade A4, then, from 1 January 2001, at grade A6. From 1 January to 30 April 2004, the applicant was a member of the auxiliary staff in group AI 04.

Having passed Open competition COM/A/3/02 for grade A7/A6 administrators in the field of research, the applicant was appointed an official by the contested decision of 11 October 2004. She was appointed to the post which she had previously held as a temporary and auxiliary staff member. Under Article 12 of Annex XIII to the Staff Regulations, the applicant was, on recruitment, placed in the new grade A*6, which ranks below the old A7/A6 grades which correspond to grades A*8/A*10 under the new system.

In support of her action, the applicant argues first that Article 12 of Annex XIII to the Staff Regulations is inapplicable in her case. According to the applicant, that article applies only to officials on a list of suitable candidates. Successful candidates on a recruitment reserve list cannot be regarded as officials.

In the alternative, the applicant argues that that article is unlawful, being in breach, in her view, of the principle of equal treatment for successful candidates of competitions published before 1 May 2004, as well as of Article 5(5) of the Staff Regulations. She also claims that her appointment to grade A*6 constitutes indirect discrimination on the ground of age as against administrators appointed in that grade, in so far as her long career is not given recognition. Furthermore, the applicant considers that the principle of equal treatment for officials performing the same functions is also infringed by the fact that she has the same experience and performs the same functions as other officials who are however in higher grades and receive a higher salary.

The applicant also pleads breach of Article 31 of the Staff Regulations, of legitimate expectations, of legal certainty, of the principle of good administration and of the duty to have regard for the interests of officials. The applicant considers that the contested decision also infringes her legitimate expectation of being allowed additional seniority in accordance with Article 32 of the Staff Regulations, as applicable before 1 May 2004.

Finally the applicant claims compensation for the material and non-material damage she has suffered as a result of her appointment to a lower grade.

**Action brought on 30 May 2005 by Michael Brown
against the Commission of the European Communities**

(Case T-208/05)

(2005/C 193/61)

(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 30 May 2005 by Michael Brown, residing in Overijse (Belgium), represented by Lucas Vogel, lawyer.

The applicant claims that the Court should:

1. annul the decision adopted by the Appointing Authority on 10 February 2005 (notified under cover of a note dated 14 February 2005, received on 25 February 2005), rejecting the claim brought by the applicant on 16 September 2004 against the decision of 22 June 2004 adopted by the president of the selection board of Competition COM/PB/04 refusing the applicant admission to that competition;
2. in addition, in so far as it is necessary, annul the decision adopted on 22 June 2004 by the president of the selection board of Competition COM/PB/04 and the confirmation thereof dated 19 July 2004;
3. order the defendant to pay the costs.

Pleas in law and main arguments

The application of the applicant, an auxiliary agent at the Commission, for admission to internal competition for change of category COM/PB/04 was rejected on the ground that he was not a temporary agent or an official at the closing date for the lodging of applications.

The applicant relies on two pleas, alleging

- firstly, infringement of Articles 27 and 29(1) of the Staff Regulations and a manifest error of assessment in that the contested decisions and the notice of competition had the effect of excluding candidates who could show that they had particular skills and considerable professional experience within the Commission in favour of candidates who were potentially less competent and who had less effective seniority in the Commission's services, and
- secondly, infringement of the principle of non-discrimination in that employees the greater part of whose career had been spent at the Commission as auxiliary agents would be admitted to the competition on the sole ground that they were temporary agents at the closing date for the lodging of applications, whereas the applicant, who was a temporary agent of long standing, was excluded on the sole ground that he was an auxiliary agent on that date.

Action brought on 30 May 2005 by the Italian Republic against the Commission of the European Communities

(Case T-212/05)

(2005/C 193/62)

(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 30 May 2005 by the Italian Republic, represented by Antonio Cingolo, Avvocato dello Stato.

The applicant claims that the Court should:

1. annul the following memoranda [No 02772 of 21 March 2005 [POR Campania Region Ob 1 2000-2006 (No. CCI 1999 IT 16 1 PO 007)], No. 04534 of 13 May 2005 [Docup Ob 2 Lombardy Region 2000-2006 (No. CCI 2000 IT 16 2 DO 014)] and No 04537 of 13 May 2005 [Docup Ob 2 Lombardy Region 2000-2006 (No CCI 2000 IT 16 2 DO 014)]] and all related and prior measures;
2. order the Commission to pay the costs.

Pleas in law and main arguments

The pleas in law and main arguments are the same as those relied on in Case T-345/04 between the Italian Republic and the Commission ⁽¹⁾.

⁽¹⁾ OJ C 262 of 23.10.2004, p. 55.

Action brought on 26 May 2005 by Jean-Luc Delplancke and Matteo Governatori against the Commission of the European Communities

(Case T-213/05)

(2005/C 193/63)

(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 26 May 2005 by Jean-Luc Delplancke, residing in Braine-le-Comte (Belgium), and Matteo Governatori, residing in Saint-Josse-ten-Node (Belgium), represented by Sébastien Orlandi, Xavier Martin, Albert Coolen, Jean Noël Louis and Etienne Marchal, lawyers, with an address for service in Luxembourg.

The applicants claim that the Court should:

- annul the decisions to appoint the applicants officials of the European Communities to the extent that they set their recruitment grade pursuant to Article 12 of Annex XIII to the Staff Regulations;