

**Form of order sought**

The applicant(s) claim(s) that the Court should:

- annul the decision adopted on 7 September 2005 by the appointing authority in response to the complaint lodged by Mr Jean-Marc Bracke (No R/570/05) and the subsequent measures adopted as a consequence of that decision;
- order the defendants to pay the costs.

**Pleas in law and main arguments**

The applicant, who was a successful candidate in competition COM/PC/04, contests the legality of the appointing authority's decision not to take him on as a probationary official on the ground that he does not fulfil the seniority requirements included among the eligibility conditions for the abovementioned competition.

The applicant contends that the contested decision infringes Article 27 of the Staff Regulations in that, for no valid reason, it denies some of the candidates access to the vacant post. He also alleges breach of the principle of non-discrimination, of the principle of sound administration, of the principle of independence of the selection board and of the principle of the protection of legitimate expectations. Finally, he contends that the provision in the vacancy notice on which the abovementioned decision was based, namely paragraph III .1, is illegal, since it is in breach of the principle of non-discrimination and should therefore be declared inoperative, pursuant to Article 241 EC.

**Action brought on 19 December 2005 — Tsarnavas v Commission**

(Case F-125/05)

(2006/C 60/100)

*Language of the case: French*

**Parties**

*Applicant:* Vassilios Tsarnavas (Athens, Greece) (represented by: N. Lhoëst, lawyer)

*Defendant:* Commission of the European Communities

**Form of order sought**

The applicant claims that the Court should:

- annul the appointing authority's decision of 1 April 2005 rejecting the applicant's request under Article 90(1) of the Staff Regulations (Request No D/007/05);

- in so far as necessary, annul the Commission's decision of 7 October 2005 rejecting the applicant's complaint (No R/488/05);

- order the defendant to pay compensation of EUR 72 000 for the pecuniary and non-pecuniary damage sustained by the applicant in consequence of the irregularities or repeated service-related faults committed by the Commission in the context of the 1998 and 1999 promotion exercises;

- order the defendant to pay the costs.

**Pleas in law and main arguments**

The applicant contests the Commission's decisions rejecting the request and the complaint which he had submitted in order to obtain compensation for the pecuniary and non-pecuniary damage caused to him by the Commission's conduct in the context of the 1998 and 1999 promotion exercises. In order to contest the measures taken by the Commission in respect of him, the applicant had initiated four pre-contentious procedures and four contentious procedures, which culminated in either the withdrawal or the annulment of those measures.

The pecuniary damage follows from the fact that, in order to ensure that his interests were fully defended in the context of the pre-contentious procedures, the applicant was required to consult a legal adviser. The non-pecuniary damage follows from the situation of uncertainty in which the applicant found himself for a number of years and also from his loss of confidence in the institution.

**Action brought on 22 December 2005 — Borbély v Commission**

(Case F-126/05)

(2006/C 60/101)

*Language of the case: English*

**Parties**

*Applicant:* Andrea Borbély (Brussels, Belgium) (represented by: R. Stötzel, lawyer)

*Defendant:* Commission of the European Communities