

Pleas in law and main arguments

On 21 December 2000, the applicant submitted a complaint against the decision not to promote him to Grade A4 in the 2000 promotion exercise. On 2 July 2001, the defendant allowed that complaint and informed the applicant that action had been taken to finalise his staff report, but this was not done. As a result, the applicant submitted an application for information about the steps taken as a result of that decision of 2 July 2001. The defendant, after having acknowledged that the 1995-1997 and 1997-1999 staff reports had not yet been finalised, offered to set the applicant's 1997-1999 report at the same level as the report which he had obtained for the period 1991-2001.

Although the applicant refused that offer, the defendant nevertheless concluded the applicant's staff report for the period 1997-1999 and decided not to add his name to the list of officials judged to be the most deserving, and not to promote him to Grade A4 in the 2000 promotion exercise.

In support of his action, the applicant first submits that that decision is invalidated inasmuch as it was taken without there being any lawfully finalised staff reports for the periods at issue. The defendant is accused of effectively committing a breach of its administrative duty by not ensuring that the applicant's staff reports for the period between 1 July 1995 and 30 June 1999 were drawn-up at the appropriate time.

The applicant also maintains that the defendant carried out the consideration of the applicant's comparative merits in an improper manner, inasmuch as it made use of alternative criteria, such as age and length of service, which may only be applied where the officials eligible for promotion are of equal merit, a condition which was not met in this instance. The contested decision therefore infringes Article 45 of the Staff Regulations and the principle of equal treatment.

Action brought on 31 January 2006 — Larsen v Commission

(Case F-11/06)

(2006/C 74/70)

Language of the case: French

Parties

Applicants: Holger Larsen (London, United Kingdom) and Others (represented by: S. Orlandi, A. Coolen, J.-N. Louis, E. Marchal, lawyers)

Defendant: Commission of the European Communities

Form of order sought

The applicants claim that the Court should:

- Annul the decision of 2 March 2005 made by the Director of the Office for Administration and Payment of Individual Entitlements to reduce the applicant's remuneration from 1 May 2005;
- Order the defendant to pay the applicant the rent allowance to which he is entitled, since the day on which it ceased to be paid to him, together with compensatory interest calculated at a rate two points above the central rate of the European Central Bank;
- Order the defendant to pay the costs.

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The applicant, an official assigned to the Commission Representation Office in London, received from 1 October 2002 a rent allowance under Article 14a of Annex VII to the Staff Regulations and Regulation No 6/66/Euratom and No 121/66/EEC⁽¹⁾. That article was repealed when the Staff Regulations were reformed and so the Commission, by decision of 2 May 2005, withdrew that allowance from the applicant.

In support of his action, the applicant first alleges the infringement of Article 62 of the Staff Regulations and Article 19 of Annex XIII thereto. He points out, in particular, that the defendant was wrong to apply the latter article in accordance with the interpretation adopted by the Heads of Administration on 14 October 2004, which excludes the rent allowance from the remuneration covered by the transitional measures laid down in that article. Such an interpretation is unlawful, inasmuch as it reduces the scope of the net income guarantee referred to by the provision in question.

In addition, the applicant contends that the contested decision infringes the principle of the equivalent purchasing power of officials, as prescribed by Articles 64 and 65 of the Staff Regulations.

⁽¹⁾ Regulation No 6/66/Euratom, 121/66/EEC of the Councils of 28 July 1966 laying down the list of places for which a rent allowance may be granted, the maximum amount of that allowance and the rules for granting it, OJ, English Special Edition 1965-6 (1), p. 212.