

**Form of order sought**

- annul the individual decisions rejecting the applicants' requests that the appointing authority adopt transitional measures in order to ensure, in the context of the 2005 and subsequent promotion exercises, equal treatment and their acquired rights;
- order the Commission of the European Communities to pay the costs.

**Pleas in law and main arguments**

In support of their application, the applicants claim that in rejecting their requests that it adopt transitional measures with the aim of taking account of their individual situations resulting from the creation of supplementary grades, the defendant disregarded their right to reasonable career prospects in the same conditions as their colleagues in the same category and also their acquired rights, in so far as their career prospects were significantly altered.

The applicants further plead an absence of relevant reasons, in that the defendant did not respond to the pleas and arguments set out in their requests and complaints.

**Action brought on 5 May 2006 — Avanzata and Others v Commission**

(Case F-48/06)

(2006/C 154/60)

*Language of the case: French***Parties**

*Applicants:* Eric Avanzata and Others (Beggent, France) (represented by: S. Orlandi, A. Coolen, J.-N. Louis and E. Marchal, lawyers)

*Defendant:* Commission of the European Communities

**Form of order sought**

- Annul the applicant's contracts as contractual agents, in that they fix the applicants' function groups, grades, steps and remuneration;
- order the Commission of the European Communities to pay the costs.

**Pleas in law and main arguments**

The applicants, who entered the service of the Commission as contract staff or workers under contracts governed by Luxembourg law, dispute their classification and remuneration as fixed by the Commission upon their appointment as contract staff posted to the Office for Infrastructure and Logistics in Luxembourg (OIL).

In support of their action, the applicants rely on a breach of Article 80 of the Conditions of employment of other servants, a breach of Article 2 of the Annex to those conditions of employment, the illegality of the general implementing provisions of those articles and also a breach of the principle of equal treatment and non-discrimination, of transparency and of sound management.

The applicants submit first of all that the defendant adopted the general implementing provisions without obtaining the prior opinion of the Staff Regulations Committee. Furthermore, the general implementing provisions do not contain a precise description of the powers attaching to each type of duties, which makes it impossible to ascertain whether the applicants were appointed to a function group corresponding to the tasks which they perform and whether their grade was fixed in accordance with Article 80 of the conditions of employment. Nor has the defendant adduced evidence that it did in fact ascertain whether it was possible to award the applicants a supplementary grade to take account of the reality of the market, as provided for in the general implementing provisions.

Last, the applicants contend that they are in the same situation as the staff employed in the crèches and the garderie in Brussels and recruited as contract staff in the Office for Infrastructure and Logistics in Brussels with a guarantee that their remuneration would be maintained. The defendant has not shown for what reasons such a guarantee was not given to the applicants.

**Action brought on 9 May 2006 — Nijs v Court of Auditors**

(Case F-49/06)

(2006/C 154/61)

*Language of the case: French***Parties**

*Applicant:* Bart Nijs (Bereldange, Luxembourg) (represented by: F. Rollinger, lawyer)

*Defendant:* Court of Auditors of the European Communities

**Form of order sought**

The applicant claims that the Tribunal should:

- Annul the Appointing Authority's decision not to promote the applicant in 2005 and any connected and/or subsequent decision;
- Order the payment of compensation for the material and non-material damage suffered by the applicant;
- Order the Court of Auditors to pay the costs.