

- in providing for the award of transitional priority points based only on seniority within a grade during the 2005 promotion year, Article 13(3) of the Rules for Implementing Article 45 infringes Article 9 of the Staff Regulations;
- in providing for more favourable treatment for officials of Directorates-General or services that have fewer staff, including the staff of the Private Offices of Members of the Commission, Article 6(2) of the General Provisions for Implementing Article 45 of the Staff Regulations infringes Article 45 of those Regulations as well as the principle that officials should have reasonable career prospects, and the principle of equal treatment.

Action brought 11 August 2006 — Nolin v Commission

(Case F-91/06)

(2006/C 237/36)

Language of the case: French

Parties

Applicant: Michel Nolin (Brussels, Belgium) (represented by: S. Orlandi, A. Coolen, J.-N. Louis and E. Marchal, lawyers)

Defendant: Commission of the European Communities

Form of order sought

The applicant claims that the Court should:

- annul the appeal assessor's decision, of 8 April 2006, setting out the applicant's Career Progress Report (CPR) for the 2005 assessment exercise;
- order the defendant to pay the costs.

Pleas in law and main arguments

In support of his action, the applicant claims that the defendant erred in law, in as far as some essential tasks and points relating to his work were not mentioned by the assessor and no comments on those tasks are made in his CPR. That situation is due to serious inconsistencies and inadequacies comparable to manifest errors of fact in the consideration of the factors relevant to his assessment.

Furthermore, the applicant considers that, despite the two changes made by the assessor in his comments as compared with the 2003 reference exercise, the applicant's report from the previous year was repeated, in breach of Article 5 of the general provisions implementing Article 43 of the Staff Regulations, whilst significant changes in the applicant's functions had taken place and the repetition of the previous year's report had taken place without the applicant's consent.

Action brought on 11 August 2006 — Magdalena Antas v Council of the European Union

(Case F-92/06)

(2006/C 237/37)

Language of the case: French

Parties

Applicant: Magdalena Antas (Warsaw, Poland) (represented by: S. Orlandi, A. Coolen, J.-N. Louis and E. Marchal, lawyers)

Defendant: Council of the European Union

Form of order sought

- annul the Council's decision rejecting the applicant's claim for damages for suffering caused by the successive errors made by the institution;
- fix a time-limit for the parties so as to allow them to agree on the correct level of compensation for the damage suffered by the applicant;
- order the defendant to pay the costs.

Pleas in law and main arguments

The applicant took up her duties as a member of the auxiliary staff in the General Secretariat of the Council on 1 November 2003 and her contract ended on 31 March 2005. From 1 January 2005, the Council automatically affiliated her to the compulsory Belgian social security scheme for the last three months of her employment. Subsequently, the Council informed the applicant of her affiliation to the abovementioned scheme with retroactive effect, dated back to the day on which she took up her duties. However, according to the applicant, as a result of the lateness of her affiliation, she was unable to meet the conditions for receiving Belgian unemployment benefits, as laid down in the Belgian Royal Decree of 25 November 1991 on the regulation of unemployment (⁽¹⁾). She was therefore unable to prove that she had sufficient means to be granted a residence permit that would allow her to remain in Belgium for more than three months, in accordance with Article 7 of Directive 2004/38/EC (⁽²⁾). Furthermore, the lateness of the affiliation deprived her of the right that she would have enjoyed under Annex XII of the Treaty of Accession of Poland to the European Union of access to the Belgian labour market.

In support of her application, the applicant pleads first of all infringement of Article 70 of the Conditions of Employment of other servants of the European Communities, which lays down the institution's obligation to affiliate auxiliary staff to a compulsory social security scheme and to take responsibility for the employer's contributions required under the legislation in force.