

- alternatively, deliver a decision whereby the European Parliament is obliged to take into account the change in the family status of the applicant (his marriage) in accordance with the principle of proportionality and provide him the full amount on installation allowance (for married officials) for the parts of the installation allowance paid after his marriage in August 2005;
- order the defendant to pay default interest;
- order the defendant to pay the costs.

Pleas in law and main arguments

From the time of his recruitment in Slovenia by the European Parliament in September 2003, and prior, the applicant had a stable non-marital relationship with his girl-friend, who became his wife in August 2005. The applicant alleges that this relationship would be legally recognised by Slovenian law.

At the beginning of his employment at the European Parliament, the applicant asked for a household allowance, which was refused on the ground that such an allowance was reserved for married couples and same-sex non-marital relationships in accordance with Article 1 of Annex VII of the Staff Regulations. In May 2005 he applied for an installation allowance, which is equal to two months' basic salary in the case of an official who is entitled to the household allowance, and equal to one month's basic salary in other cases. He was granted the first part of the installation allowance (which is paid in three parts, one part per year) provided for singles. After his marriage, he applied for the part of the installation allowance that is granted to married staff but he was denied on the grounds the change in his family status was posterior to the end of his probationary period.

In support of his action, the applicant relies mainly on the following pleas in law:

- first, invalidity of Article 1 (2) (c) and 1 (2) (d) of Annex VII of the Staff Regulations and alternatively wrong interpretation of those articles by the defendant's administration due to infringements of basic Community concepts such as free movements of workers, citizenship of the European Union and free movement of persons, prohibition of discrimination and unequal treatment, and non-respect of basic human rights and of principle of proportionality;
- Secondly, wrong interpretation of the date of the end of the probationary period as an absolute definitive date for the installation allowance although the payments themselves are being carried out in a three years period.

Action brought on 15 September 2006 — Dittert v Commission

(Case F-109/06)

(2006/C 281/84)

Language of the case: French

Parties

Applicant: Daniel Dittert (Luxembourg, Luxembourg) (represented by: B. Cortese and C. Cortese, lawyers)

Defendant: Commission of the European Communities

Form of order sought

- annul the decision of the Appointing Authority to award a number of priority points to the applicant which was insufficient to allow his promotion in the 2005 promotion procedure and not to promote him in that promotion procedure, as confirmed by the decision of 6 June 2006, rejecting the applicant's complaint No R/73/06
- order the defendant to pay the costs

Pleas in law and main arguments

In support of his application, the applicant puts forward a single plea: the contested decision is tainted by serious defects resulting from a procedural irregularity and from an infringement of the principle of good administration and of the duty to have regard for the welfare of officials.

Following a technical problem, which remains unexplained, the applicant's file was not taken into account by his Directorate-General when it was allocating priority points in the 2005 promotion procedure. This failure to take the applicant into account constitutes a procedural flaw and an infringement of the principle of good administration and of the duty to have regard for the welfare of officials.

Those irregularities were such as to invalidate the 2005 promotion procedure in so far as it concerned the applicant, and to harm the applicant's interests, since he was allocated fewer priority points than his own superiors (in this case, the Director-General of DG Competition) wished to give him, once the technical problem had been detected. In effect, according to the applicant, DG Competition assured him that, absent the technical problem, it would have allocated to him a sufficient number of points to ensure his promotion to grade AD9, namely 7 points; the DG also expressly asked the A* Promotion Committee to remedy the applicant's situation by allocating that number of points to him. Notwithstanding this, the A* Promotion Committee proposed the allocation of only 4 'points awarded on appeal' to the applicant, and the Appointing Authority followed this advice, with the result that the applicant was allocated an insufficient number of points to allow his promotion to grade AD9 in the 2005 exercise.

The applicant claims that, rather than the remedying of the situation created by the technical problem, the intervention of the A* Promotion Committee and of the Appointing Authority themselves gave rise to procedural irregularities. Thus the A* Promotion Committee exceeded its authority and its powers in proposing to allocate a lower number of points to the applicant than had been proposed by his superiors, once the technical problem had been discovered. Furthermore, both the A* Promotion Committee and the Appointing Authority failed to undertake a real consideration of the applicant's comparative merits.

Action brought on 15 September 2006 — Carpi Badía v Commission

(Case F-110/06)

(2006/C 281/85)

Language of the case: French

Parties

Applicant: José María Carpi Badía (Luxembourg, Luxembourg) (represented by: B. Cortese and C. Cortese, lawyers)

Defendant: Commission of the European Communities

Form of order sought

- annul the decision of the Appointing Authority to allocate to the applicant an insufficient number of priority points to allow his promotion in the 2005 promotion procedure and not to promote him in that promotion procedure, as confirmed by the Decision of 6 June 2006, rejecting the applicant's complaint No R/74/06;
- order the defendant to pay the costs

Pleas in law and main arguments

The pleas in law and main arguments relied on in this case are almost identical to those relied on in Case F-109/06, the notice concerning which is published in this issue of the *Official Journal of the European Union*.

Action brought on 25 September 2006 — Giannopoulos v Council

(Case F-111/06)

(2006/C 281/86)

Language of the case: French

Parties

Applicant: Nikos Giannopoulos (Wezembeek-Oppem, Belgium) (represented by: S. Rodrigues and C. Bernard-Glanz, lawyers)

Defendant: Council of the European Union

Form of order sought

- annul the applicant's classification decision as stated in the establishment decision of 18 November 2003 in that it awards him grade A7;
- annul, in so far as necessary, the appointing authority's decision rejecting the applicant's complaint;
- indicate to the appointing authority the effects of the annulment of the contested decisions, and in particular: (i) the applicant is to be reclassified in grade A6, in order to take account of the exceptional nature of his qualifications and the specific needs of the service, with retroactive effect to 18 November 2003; (ii) the applicant is to be reclassified in a step which takes account of his professional experience and is, at least, equivalent to that granted to him on the date of his recruitment; (iii) the applicant is to be paid the difference between the salary corresponding to the grade and step in which he was classified and that corresponding to the grade and step in which he ought to have been classified, plus default interest at the statutory rate from the date on which the amount in question became payable;
- order the defendant to pay the costs.

Pleas in law and main arguments

The applicant, a successful candidate in open competition EUR/A/127 (*) for the constitution of a reserve for the future recruitment of administrators A7/A6, was recruited by the General Secretariat of the Council and classified in grade A7. Having learnt in July 2005 that other successful candidates in competitions for grades A7/A6 had been recruited by the General Secretariat in grade A6, or reclassified in that grade following an internal administrative review of the initial classification decisions, the applicant submitted a request for reclassification. That request was rejected by the administration, as was the complaint which he subsequently submitted.