

**Judgment of the Civil Service Tribunal (Second Chamber)
of 19 October 2006 — Combescot v Commission**

(Case F-114/05) ⁽¹⁾

*(Officials — Appeal — Time-limits — Implied rejection —
Explicit refusal, notified at a later stage, to reopen the period
for lodging an appeal — Legal interest in bringing proceed-
ings — Inadmissibility)*

(2006/C 294/128)

Language of the case: Italian

Parties

Applicant: Philippe Combescot (Popayán, Colombia) (represented by: A. Maritati and V. Messa, lawyers)

Defendant: Commission of the European Communities (represented by: V. Joris and M. Velardo, Agents, assisted by S. Corongiu, lawyer)

Re:

First, annulment of the Commission's decision to reassign the applicant, in the interests of the service, from the Commission's delegation in Guatemala to its Brussels headquarters under the 2003 rotation scheme and, secondly, an application for damages

Operative part of the judgment

1. *The action is dismissed as inadmissible.*
2. *Each party shall bear its own costs.*

⁽¹⁾ OJ C 22, 28.1.2006, p. 22 (case initially registered before the Court of First Instance of the European Communities under number T-422/05 and transferred to the Civil Service Tribunal of the European Union by order of 15.12.2005)

**Action brought on 31 August 2006 — Simon v Court of
Justice and Commission**

(Case F-100/06)

(2006/C 294/129)

Language of the case: Hungarian

Parties

Applicant: Balázs Simon (Brussels, Belgium) (represented by: György Magyar, lawyer)

Defendants: Court of Justice of the European Communities and Commission of the European Communities

Form of order sought

- annul: (i) the decision of the Appointing Authority of the Court of Justice of 23 February 2006; (ii) the decision of the Appointing Authority of the Commission of 3 March 2006; (iii) the decision of the Appointing Authority of the Commission of 30 May 2006; (iv) the decision of the Appointing Authority of the Court of Justice of 27 June 2006, in so far as those decisions deprive the applicant of the rights to which his appointment as a probationary official on 16 July 2004 entitles him, and thus of his length of service and grade, and of the rights to which his appointment as an established official on 16 April 2005, that is to say, his definitive appointment, entitles him;
- order the defendants to pay the costs.

Pleas in law and main arguments

After having brought Case F-58/06 ⁽¹⁾, the applicant now challenges both the decisions of the Court of Justice to accept his resignation offered in his statement of 28 October 2005 and the decisions of the Commission fixing his classification at grade A*5.

In support of his action, the applicant puts forward two pleas, alleging, in the first, a breach of the principle prohibiting the withdrawal of rights guaranteed by the Staff Regulations and interference with acquired rights, and, in the second, misuse of powers and an interference with acquired rights.

In his first plea, the applicant, inter alia, submits that, by his statement of 28 October 2005 he did not intend to leave the body of officials, but only to change his place of work and function. Thus, he did not forfeit his acquired rights.

In his second plea, the applicant maintains, inter alia, that, even supposing that by his statement he had waived his status as an official, such waiver would be illegal on the ground that the defendants made it the de facto condition in order for him to be transferred from one institution to another. In addition, the applicant alleges that, in so far as he had been appointed an official at grade A*7 by the Court of Justice, he fulfils the conditions required in order to be classified in that grade, with the result that his classification by the Commission in grade A*5 constitutes a misuse of power that deprives him of his acquired rights.

⁽¹⁾ OJ C 190, 12.8.2006, p. 35.