

Case T-57/89

Nikolas Alexandrakis

v

Commission of the European Communities

(Officials — Differences between
the complaint and the application)

Judgment of the Court of First Instance (Third Chamber), 29 March 1990 144

Summary of the Judgment

1. *Officials — Actions — Prior complaint through official channels — Purpose — Consistency between the complaint and the application — Matter of public policy raised by the Court of its own motion — Submission not appearing in the complaint — Conditions regarding admissibility*
(*Staff Regulations, Arts 90 and 91; Rules of Procedure, Art. 92(2)*)
2. *Officials — Recruitment — Special rules applicable to overseas staff of the European Association for Cooperation*
(*Staff Regulations, Arts 31 and 32; Council Regulation No 3018/87, Art. 3*)

1. The question of admissibility in connection with consistency between the prior complaint through official channels and the application to the Court is a matter of public policy, inasmuch as it relates to the legality of the administrative procedure, which constitutes an essential procedural requirement. The Court is justified in considering the matter of its own motion in particular in view of the very purpose of the administrative procedure, namely to permit an amicable settlement of the differences which have arisen between officials or servants and the administration.

The Court must dismiss as inadmissible any submission which was not relied on in the complaint and which was first raised in the course of the written procedure before it, since the official complaint not only contains no reference to that submission but also does not include any argument from which the defendant institution could have inferred that the applicant intended to make the submission at issue.

2. When the appointing authority appoints an official on the basis of the normal recruitment rules under the Staff Regulations, the relevant classification criteria

may be applied in the context of Articles 31 and 32 thereof.

Where, on the other hand, an official has been appointed pursuant to Regulation No 3018/87 introducing special transitional measures for the recruitment of overseas staff of the European Association for Cooperation as officials of the European Communities, the classification

of the person concerned in the appointment decision is lawful in so far as it was determined in accordance with the derogation set out in Article 3 of the regulation, under which the criterion automatically applying relates to the level of salary previously received from the said Association, whose application therefore rules out any reference to the classification criteria under the normal rules.

JUDGMENT OF THE COURT OF FIRST INSTANCE (Third Chamber)
29 March 1990 *

In Case T-57/89

Nikolas Alexandrakis, an official of the Commission of the European Communities, residing at Suva (Fiji), represented by Edmond Lebrun, of the Brussels Bar, with an address for service in Luxembourg at the Chambers of Tony Bieber, 83, boulevard Grande-Duchesse-Charlotte,

applicant,

v

Commission of the European Communities, represented by Sean van Raepenbusch, a member of its Legal Department, acting as Agent, with an address for service in Luxembourg at the office of Georgios Kremlis, Wagner Centre, Kirchberg,

defendant,

APPLICATION for the annulment of part of the Commission's decision of 12 February 1988 appointing the applicant an official, in so far as it is an

* Language of the case: French.