

Case T-16/90

Anastasia Panagiotopoulou

v

European Parliament

(Officials — Conditions for admission to an open competition — Diploma awarded by a private institute — Recognition precluded by the constitution of the Member State in question)

Judgment of the Court of First Instance (Fifth Chamber), 11 February 1992 II - 90

Summary of the Judgment

- 1. Officials — Actions — Act adversely affecting an official — Decision not to admit an applicant to take part in a competition adopted following reconsideration of a previous decision — Limitation period — Starting point — Notification of the new decision (Staff Regulations, Arts 90 and 91)*
- 2. Officials — Recruitment — Competitions — Competition based on tests — Requirement of university degrees — Concept of university degree — Assessment in the light of the legislation of the State in which studies took place*
- 3. Officials — Recruitment — Competitions — Refusal to admit to a competition — Decision having adverse effect — Duty to state reasons — Scope (Staff Regulations, second paragraph of Art. 25; Annex III, Art. 5)*

1. The decision by which the selection board for a competition, after reconsidering an application at the candidate's request, refuses to admit a candidate to take part in the tests replaces the decision previously adopted by the selection board and cannot be regarded as merely confirming it.

Since a decision taken by a selection board for a competition may be challenged before the Court of First Instance without any need for a prior complaint, the limitation period begins to run upon the notification of the new decision.

2. In the absence of any provision to the contrary contained in either a regulation or a directive applicable to recruitment competitions organized by the Community institutions or in the notice of competition, the requirement of a university degree is necessarily to be construed in the light of the definition of that term in the legislation of the Member State in which the candidate completed the studies on which he relies.
3. The duty to state the grounds for each decision adversely affecting an official set out in the second paragraph of Article 25 of the Staff Regulations is intended both to provide the person concerned with sufficient details to allow him to ascertain whether or not the decision is well founded and to enable the Court to review the legality of the decision.

Since the organization of university education comes within the competence of the Member States, the Community institutions are required, by their duty of sincere cooperation with the Member States, to respect the rules adopted by the Member States in the exercise of their competence. That is so in particular where provisions of constitutional law are involved.

A decision by which a selection board refuses to admit a candidate to the tests in a competition on the ground that he does not satisfy the condition regarding possession of a university degree is adequately reasoned where the decision clearly explains the reason why the selection board did not consider the qualification produced by the candidate to be a university diploma and, moreover, indicates that the selection board did not regard itself as bound by the decisions of other selection boards referred to by the candidate under which holders of the same qualification had been admitted to take part in competitions organized by other institutions for equivalent posts.

JUDGMENT OF THE COURT OF FIRST INSTANCE (Fifth Chamber)

11 February 1992 *

In Case T-16/90,

Anastasia Panagiotopoulou, residing in Athens, represented by Stavros Afendras, of the Athens bar, with an address for service in Luxembourg at the Chambers of Aloyse May, 31 Grand-Rue,

applicant,

* Language of the case: Greek.