

JUDGMENT OF THE COURT OF FIRST INSTANCE (First Chamber)
11 February 2003

Case T-30/02

Wolfgang Leonhardt
v
European Parliament

(Officials – Reports – Promotion –
Amendment to the rules – Transitional measures)

Full text in French II - 265

Application for: annulment of the Parliament's decision of 11 June 2001
resetting at zero the tally of promotion points held by the
applicant on 1 January 2000.

Held: The Parliament's decision of 11 June 2001 resetting at
zero the tally of promotion points held by Mr Leonhardt
on 1 January 2000 is annulled. The Parliament is ordered
to bear the costs.

Summary

*1. Officials – Promotion – Change from one system to another – Temporary derogation from the strict application of permanent rules and principles on the subject – Whether permissible – Limits
(Staff Regulations, Art. 45(1), first para.)*

*2. Officials – Promotion – Adoption of a new promotion system – Limit on account to be taken of merits recognised previously – Whether permissible
(Staff Regulations, Art. 45(1), first para.)*

*3. Officials – Promotion – Adoption of a new promotion system – Transition from the old system to the new – Not possible for any official promoted during the transitional period to carry over merits recognised prior to his promotion, regardless of its date – Equal treatment – Principle of entitlement to career prospects – Breach – Illegality
(Staff Regulations, Art. 45(1), first para.)*

1. The constraints inherent in changing from one method of management to another, in respect of officials' careers, may require the administration to depart temporarily, and within certain limits, from the strict application of the permanent rules and principles that normally apply to the situations at issue. However, such departures must be justified by an overriding requirement connected with the transition, and their duration and scope should not exceed what is necessary to ensure an orderly move from one system to the other.

(see para. 51)

2. The purpose of changing the existing method of promoting officials is, ex hypothesi, to rectify certain problems resulting from the application of the earlier rules. It is therefore inherent in such a reform process, the need for which the administration has wide discretion to assess, that the merits of officials should begin to be evaluated on a new basis from a given date. The administration cannot be expected, under the new system, to take account, in exactly the same way, of all the marks awarded to officials under the old system, since that would almost inevitably negate the effectiveness of the reform of the promotion system, and staff are, in any event, not entitled to expect the existing rules to remain unchanged. Limiting the account taken of earlier marks, with the result that the theoretical tally produced by converting those marks into the promotion points introduced by the new system does not allow the officials concerned to achieve more than a move to the next grade, may not be regarded as exceeding the powers which the appointing authority has to introduce, on a transitional basis, changes to the rules governing the promotion of officials. It merely establishes a ceiling for the account to be taken of merits recognised previously.

Restricting the number of promotion points of officials undergoing the change of system to the level corresponding to the reference threshold for a change of grade, and the resulting restart from zero, at the higher grade, for staff who had reached that threshold when the new system came into force, may thus be regarded as justified by the requirements inherent in a change of rules.

(see paras 55-57)

See: *62/75 de Wind v Commission* [1976] ECR 1167, para. 17; *T-557/93 Rasmussen v Commission* [1995] ECR-SC I-A-195 and II-603, para. 20

3. While it is inherent in a change of rules that new situations are created on a given date as a result of adapting the account taken of situations constituted earlier, it is, at the very least, necessary to re-establish equal treatment, with all that that implies, from the time when the new system comes into force. Differences of treatment in the appraisal under the new rules of situations constituted before those rules came into force cannot be justified in terms of the assimilation of past performance.

The provision in the rules on the implementation of a new promotion system for Parliament officials which requires the promotion points of a promoted official to be reset at zero for a transitional period, regardless of when the official was promoted, constitutes an infringement of the principle of equal treatment between officials which is not justified by the requirements of the transition from one promotion system to another. It is also contrary to the principle that officials should have reasonable career prospects, which, like the principle of equal treatment, is expressed in the procedure for consideration of the comparative merits of candidates eligible for promotion provided for in the first paragraph of Article 45(1) of the Staff Regulations.

While it is always open to the appointing authority, in the case of two officials in the same situation in terms of promotion points, to prefer to grant promotion to one rather than the other, on the basis of a general assessment of their respective qualities, that preference may not, however, prevent the official whose promotion is deferred from acquiring promotion points for a year for which the official promoted immediately will be able to acquire such points with a view to further promotion. That is precisely the outcome that follows from the rule, which derogates from the principle that promotion points acquired over and above the threshold for eligibility for promotion should be retained, that the tally of promotion points of an official promoted at any time during the transitional period must be reset at zero.

(see paras 59, 63-64, 67)

See: 20/83 and 21/83 *Vlachos v Court of Justice* [1984] ECR 4149, para. 19; T-280/94 *Lopes v Court of Justice* [1996] ECR-SC I-A-77 and II-239, para. 138