

JUDGMENT OF THE COURT OF FIRST INSTANCE (Third Chamber)  
18 September 2003

Case T-73/01

**Spyridon de Athanassios Pappas**  
v  
**Committee of the Regions of the European Union**

(Officials – Recruitment –  
Post of Secretary General of the Committee of the Regions –  
Vacancy notice – Recruitment procedure)

Full text in French . . . . . II - 1011

**Application for:** annulment of the decision of the Committee of the Regions of 13 June 2000 appointing Mr Vincenzo Falcone to the post of Secretary General of the Committee of the Regions (Recruitment notice 2000/C 28 A/01) and rejecting the applicant's candidature for that post, and of the decision rejecting the applicant's complaint.

**Held:** The decision of the Committee of the Regions of 13 June 2000 appointing Mr Vincenzo Falcone to the post of Secretary General of the Committee of the Regions (Recruitment notice 2000/C 28 A/01) and rejecting the candidature of Mr Pappas for that post is annulled. The Committee of the Regions is to pay the costs.

## Summary

*1. Officials – Members of the temporary staff – Recruitment – Consideration of comparative merits – Staff in Grade A 1 or A 2 – Discretion of the authority authorised to conclude contracts of engagement – Limits – Respect for the conditions set by the recruitment notice and for the procedural rules adopted for the exercise of discretion*

*2. Officials – Members of the temporary staff – Recruitment – Consideration of comparative merits – Setting up by the authority authorised to conclude contracts of engagement of an advisory body not provided for in the relevant documents – Opinion included in the criteria considered when making a selection*

1. The authority authorised to conclude contracts of engagement has a very broad discretion when comparing the merits of the candidates, in particular where the post to be filled is at a very high level, corresponding to Grade A 1 or A 2. The exercise of that broad discretion presupposes at the very least scrupulous observance of the relevant regulations, in other words not just of the recruitment notice, but also of any procedural rules which the authority has adopted for the exercise of its discretion.

The recruitment notice constitutes a legal framework which the authority authorised to conclude contracts of engagement imposes on itself and to which it must adhere strictly. Likewise, a recruitment procedure agreed by an ad hoc committee set up by the authority authorised to conclude contracts of engagement with the task of examining the documents relating to the recruitment procedure, and approved, at

least tacitly, by that authority, forms part of the legal framework to which the authority is required to adhere strictly in the exercise of its broad discretion.

(see paras 52-56)

See: C-35/92 P *Parliament v Frederiksen* [1993] ECR I-991, paras 15 and 16; T-586/93 *Kotzonis v ESC* [1995] ECR II-665, para. 81; T-21/96 *Giannini v Commission* [1997] ECR-SC I-A-69 and II-211, para. 19; T-159/96 *Wenk v Commission* [1998] ECR-SC I-A-193 and II-593, para. 63; T-203/97 *Forvass v Commission* [1999] ECR-SC I-A-129 and II-705, para. 45; T-143/98 *Cendrowicz v Commission* [1999] ECR-SC I-A-273 and II-1341, para. 39; T-351/99 *Brumter v Commission* [2001] ECR-SC I-A-165 and II-757, para. 71; T-95/01 *Coget and Others v Court of Auditors* [2001] ECR-SC I-A-191 and II-879, para. 113; T-158/01 *Tilgenkamp v Commission* [2002] ECR-SC I-A-111 and II-595, paras 50 and 51

2. Where the authority authorised to conclude contracts of engagement sets up an advisory committee not provided for by the relevant rules in order to obtain an opinion, for the purpose of recruitment for a particular post, of the abilities and aptitudes of the various candidates, having regard to the qualifications required, and in order to have a better basis for carrying out the comparative examination of the merits of the candidates, the opinion of that committee forms part of the information on the strength of which the institution or Community body bases its own assessment of the candidates.

(see para. 60)

See: 44/85, 77/85, 294/85 and 295/85 *Hochbaum and Rawes v Commission* [1987] ECR 3259, para. 16; T-25/90 *Schönherr v ESC* [1992] ECR II-63, para. 27; T-60/94 *Pierrat v Court of Justice* [1995] ECR-SC I-A-23 and II-77, paras 35 to 37