

Case T-15/91

Josée Bollendorff
v
European Parliament

(Admissibility — Interest in bringing proceedings — Request for upgrading of a post — Principles of good administration and equal treatment)

Judgment of the Court of First Instance (Fifth Chamber), 10 April 1992 II - 1680

Summary of the Judgment

- Officials — Actions — Prior administrative complaint — Time-limits — Matter of public policy*
(Staff Regulations, Arts 90 and 91)
 - Officials — Actions — Prior administrative complaint — Implied decision rejecting a request not challenged within the time-limit — Subsequent express decision — Confirmatory measure — Time-barred*
(Staff Regulations, Arts 90(1) and 91)
1. The time-limits under Articles 90 and 91 of the Staff Regulations for bringing complaints and appeals, laid down with a view to ensuring clarity and legal certainty, are a matter of public policy and are not a plea to be raised at the discretion of the parties or the Court.
- The fact that an institution has not pleaded that a complaint is out of time

cannot relieve the Court of its obligation to check whether the time-limits laid down in the Staff Regulations have been complied with.

2. Since the express rejection of a request after an implied decision rejecting that request is merely a confirmatory measure, it cannot, in the absence of any provision in the Staff Regulations to that

effect, enable an official who has not challenged the implied decision rejecting his request within the time-limits to pursue the pre-litigation procedure by giving him a fresh period for lodging a complaint, without endangering legal certainty, which requires that the means of redress of officials and other servants should be governed by precise rules strictly interpreted.

JUDGMENT OF THE COURT OF FIRST INSTANCE (Fifth Chamber)

10 April 1992 *

In Case T-15/91,

Josée Bollendorff, an official of the European Parliament, residing in Bertrange (Luxembourg), represented by Laurent Mosar, of the Luxembourg Bar, with an address for service in Luxembourg at his Chambers, 8 Rue Notre-Dame,

applicant,

v

European Parliament, represented by Jorge Campinos, Jurisconsult, and Manfred Peter and Jannis Pantis, of its Legal Service, acting as Agents, with an address for service in Luxembourg at the General Secretariat of the European Parliament, Kirchberg,

defendant,

APPLICATION for the annulment of the implied decision of the Parliament rejecting the applicant's complaint of 10 August 1990, for an order that the applicant be regraded or, in the alternative, for an internal competition procedure

* Language of the case: French.