

Case T-45/90

Alicia Speybrouck

v

European Parliament

(Temporary staff — Dismissal — Protection of pregnant employees
Statement of reasons for dismissal — Period of notice —
Compliance with duly established
internal procedure)

Judgment of the Court of First Instance (Fifth Chamber), 28 January 1992 II - 35

Summary of the Judgment

1. *Officials — Equal treatment — Equal treatment of male and female officials — Fundamental right — Observance ensured by the Community judicature — Dismissal of a pregnant woman — Not permissible — Conditions*
2. *Officials — Temporary staff — Subject to different conditions — Termination of the contract of indefinite duration of an employee of a parliamentary group — Obligation to state reasons — None*
(Staff Regulations, Art. 25; Conditions of Employment of other Servants, Arts 2(c) and 11)
3. *Officials — Temporary staff — Termination of the contract of indefinite duration of an employee of a parliamentary group — Discretion of the administration — Review by the Court — Limits*
(Conditions of Employment of other Servants, Art. 47(2))

1. The principle of equal treatment for men and women in matters of employment and the corresponding prohibition of any direct or indirect discrimination on grounds of sex form part of the fundamental rights the observance of which the Court of Justice and the Court of First Instance must ensure pursuant to Article 164 of the EEC Treaty.

Where the contract of employment expressly provides that it may be terminated unilaterally but does not, by means of a reference to the relevant provisions of the Conditions of Employment of other Servants, impose the obligation to state the reasons for termination, the application by analogy of Article 25 of the Staff Regulations provided for in general terms in Article 11 of the Conditions of Employment is excluded.

Under the Staff Regulations, the requirements imposed by the principle of equal treatment for male and female workers are in no way limited to those resulting from Article 119 of the EEC Treaty or from the Community directives adopted in that field.

That exemption from the obligation to state reasons is bound up with the fact that mutual trust is an essential feature of the contracts of employment of the temporary staff referred to in Article 2(c) of the Conditions of Employment of other Servants. That applies with greater force to people who are engaged by the Parliamentary groups which, as a general rule, exist by virtue of a clearly defined political choice.

Therefore, a pregnant employee cannot be dismissed on account of her pregnancy, such a dismissal being in breach of the said principle of equal treatment. That does not mean, however, that she cannot be dismissed for reasons unconnected with her pregnancy.

3. It is clear from Article 47(2) of the Conditions of employment of other servants that the termination of a contract of indefinite duration is, provided that notice is given as laid down in the contract and in conformity with that provision, a matter within the discretion of the competent authority.

2. By contrast with officials, whose security of tenure is guaranteed by the Staff Regulations, members of the temporary staff are subject to specific conditions based on the contract of employment entered into with the institution concerned.

The Court cannot review the exercise of that discretion unless a manifest error or misuse of powers can be established.