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.

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.

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.

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.

V

European Parliament, represented by Jorge Campinos, jurisconsult, assisted by Manfred Peter, Head of Division, and Jannis Pantalis, a member of the Legal Service, acting as Agents, with an address for service at the Chambers of Jorge Campinos, Bâtiment BAK III, Kirchberg,

defendant,

APPLICATION for the annulment of the decision of the Selection Board in Open Competition No PE/137/LA (Greek Language Translators) not to admit the applicant to take part in the competition,

THE COURT OF FIRST INSTANCE OF THE EUROPEAN COMMUNITIES
(Fifth Chamber),

composed of: K. Lenaerts, President, D. Barrington and H. Kirschner, Judges,

Registrar: B. Pastor, Administrator,

having regard to the written procedure and further to the hearing on 24 October 1991,

gives the following

Judgment

The facts of the case

1 By a notice published in the Official Journal of 9 February 1989, the European Parliament (hereinafter referred to as 'the Parliament') announced that it was organizing an open competition based on tests (PE/137/LA) for the purpose of drawing up a reserve list of Greek-language translators of Grade LA 7/6 (Official Journal 1989 C 33, Greek Language Edition, p. 18). The notice of the competition provided in paragraph III. B.1., entitled 'Degrees, diplomas, etc., and professional experience', that

'By the closing date for applications, candidates must have an appropriate university degree (in languages, political science, law, economics, etc.) or at least five years' equivalent professional experience in the field of translation'.

2 Paragraph V of the notice provided that applications could be reconsidered according to the following rules:

'Candidates are entitled to request that their application be reconsidered, if they believe that a mistake has been made. In that case, within twenty days of the date of dispatch . . . of the letter informing them that their application has not been accepted, they may lodge a complaint . . . '.

3 In the same issue of the Official Journal there was published a communiqué entitled 'Provisions common to Open Competitions', followed by a 'Guide to candidates taking part in open competitions of the European Parliament'. At point 1, 'The notice of open competition', the Guide contained in particular the following recommendations:

'Please read the notice of open competition very carefully and make sure that in your opinion you fulfil all the minimum conditions laid down in the document. Conditions such as nationality, age and educational qualifications have to be rigidly enforced and you are therefore wasting your time and that of the Parliament in completing the form if you fall outside these requirements.'

Point 2, 'Education', stated that

'Educational qualifications will be considered and evaluated, where necessary, by an expert of the educational system of your own country . . .

(With regard to that education, you must understand that posts in Grade A or LA require a diploma showing completion of university education — in a university recognized in Greece or abroad — . . .) . . .

In the case of candidates who have followed their education in non-member countries (e. g. the United States of America), the fullest documentation should be sent to enable an expert evaluation of the certificates concerned'.

Point 5, 'Common causes of misunderstanding', states further that

'The educational level required for admission to the competitions is not always similar to that required by the national civil services'.

4 The applicant submitted her application within the period prescribed in the notice of competition. The document which she submitted as evidence of her university education was a copy of her degree of bachelor of arts which had been awarded to her by Deree College, a private institute forming part of the American College of Greece, based in Athens.

5 Article 16(5) of the Greek Constitution provides that

'higher education shall be provided only by institutes subject to public law which are completely independent and which operate under the control of the State'.

Paragraph 8(b) of that article provides that 'the establishment of schools of higher education by individuals shall be prohibited'. The Greek Government and the parties stated in their answers to questions put by the Court that it follows from those provisions that, according to Greek law, Deree College, as a private institute pursuing its activity in Greece, is not regarded as a university. Similarly, diplomas awarded by private institutes of higher education operating in Greece are not regarded in Greece as university qualifications. There is no procedure whereby those diplomas may be recognized or validated by the Greek authorities.

6 By letter of 16 October 1989, the President of the selection board for Competition No PE/137/LA informed the applicant that she had not been admitted to the tests. That letter, in a standard form, contained a series of boxes to be ticked in order to

inform the person to whom it was sent of the condition for admission that was not satisfied. In the letter sent to the applicant, the box referring to 'absence of university degree or absence of at least five years' equivalent professional experience' was ticked.

7 On 6 November 1989 the applicant requested that her application be reconsidered in accordance with paragraph V of the notice of the competition, by lodging a 'complaint' with the selection board. She claimed, in particular, that the bachelor's degree of which she had provided evidence was recognized as a university degree by other Member States and also by the Commission of the European Communities, which had admitted persons with that degree to competitions for posts of LA grade. The selection board, after reconsidering, on 14 November 1989, the documents submitted by the applicant, decided to adhere to its original decision. The President of the selection board informed the applicant by letter of 22 November 1989 that

'the abovementioned selection board, although it reconsidered on 14 November 1989 the documents accompanying your application, at the same time taking account of the statements and arguments contained in your complaint, has decided to adhere to its original decision, on the ground that:

the criterion accepted by the Parliament for recognition of studies pursued in Greece is recognition by the Greek State. Deree College is not recognized by the Greek Ministry of Education as an institute of higher education. The fact that the Commission may have admitted applicants possessing a degree from Deree College to competitions does not in any way bind the selection boards of the other Community institutions'.

8 After bringing these proceedings, the applicant was admitted to the tests for Open Competition Council/A/319 for the purpose of drawing up a reserve list for the recruitment of administrators.

Procedure

9 Mrs Panagiotopoulou's application was lodged at the Registry of the Court of First Instance on 28 March 1990. The written procedure followed its normal course.

10 Upon hearing the report of the Judge-Rapporteur, the Court decided to open the oral procedure without any preparatory inquiry. However, it requested the Greek Government and the parties to answer a number of questions concerning the legal rules applicable in Greek law to degrees awarded by private educational institutes.

11 In answer to those questions, the Greek Government, referring to Article 16(5) of the Greek Constitution, cited above, stated that 'according to Greek law, Deree College, as a private school pursuing its activity in Greece, cannot be regarded as a university'. It stated that a degree awarded by Deree College did not entitle the holder to be recruited by the Greek civil service at a level corresponding to posts held by graduates of institutes of higher education. The Greek Government also informed the Court that the profession of translator (whether employed or self-employed) was not subject to any particular rules in Greece, which meant that a private employer was free to determine whether the degree of bachelor of arts awarded by Deree College satisfied the conditions laid down for the post that he was seeking to fill.

12 The Greek Government also drew the Court's attention to judgment No 2274/1990 of the Council of State of the Hellenic Republic of 8 June 1990 concerning a decision of the Interuniversity Centre for the Validation of Qualifications Awarded Abroad (Diapanepistimiako Kentro Anagnoriseos Titlon Spoudon tis Allodapis, hereinafter referred to as 'Dikatsa'), which, pursuant to Law No 741/1977, is empowered to validate foreign educational qualifications. By its contested decision Dikatsa had refused to validate a postgraduate degree of master of arts awarded by an American university on the basis of a degree of bachelor of arts which had itself been awarded by Deree College in Athens. The Council of State upheld that decision, ruling that Dikatsa was not entitled to recognize a foreign postgraduate degree awarded on the basis of an educational qualification which had itself been awarded by a private institute established in Greece and which certified successful completion of a course of studies in higher education. Such recognition, according to the Council of State, would amount to recognition of qualifications or degrees awarded by private institutes of higher education established in Greece, which would infringe the prohibition in the Greek Constitution on the setting-up and operation of such institutes.

13 The answers of the parties to the questions put by the Court will be examined together with the pleas put forward in support of their claims.

14 The parties submitted oral argument and replied to questions put by the Court of First Instance at the hearing on 24 October 1991. At the hearing the Parliament produced a letter from the Commission, dated 1 October 1991, according to which the degree of Deree College is not recognized by the Commission for the purpose of access to a post of Category A, first of all because that institute is not recognized by the Greek authorities and, secondly, because the Commission requires a diploma awarded on completion of a course of studies of the requisite length; thus bachelor of arts degrees awarded by American universities are not regarded as adequate, a master's degree always being required. The Parliament also produced a statement from the Council to the effect that the decision to admit the applicant to take part in the tests in Open Competition Council/A/319 was taken by the selection board in that particular competition and that it did not represent a general rule applicable to all competitions organized by the Council.

15 Also at the hearing the representative of the applicant offered to produce a list of persons holding the degree of bachelor of arts awarded by Deree College who were currently officials in Category A or LA in the various institutions of the European Community. Following a discussion with the Court regarding the question whether the offer of evidence was out of time, and after acknowledging that that list would not reveal whether the degree awarded by Deree College was the only qualification which the persons appearing on the list possessed at the time of their recruitment or whether they also had other qualifications, the representative of the applicant withdrew his offer.

16 The applicant claims that the Court of First Instance should:

— annul the decision of the selection board for Competition No PE/137/LA (Greek-language translators for the European Parliament) of 22 November 1989 whereby it dismissed the complaint which she had lodged on 6 November 1989:

  — against the decision of that selection board of 16 October 1989 rejecting her application to take part in the tests for Competition No PE/137/LA (Greek-language translators);

and/or

— against the refusal of the selection board for Competition No PE/137/LA (Greek-language translators) to recognize as a university degree the bachelor's degree awarded to her by Deree College;

— recognize as a university degree the degree awarded to her by Deree College;

— declare that the refusal of the selection board for Competition No PE/137/LA (Greek-language translators) to admit her to take part in the tests for the competition in question was unlawful;

— annul Competition No PE/137/LA (Greek-language translators) and also the list of candidates successful in that competition;

— order the defendant to pay the costs.

The defendant claims that the Court of First Instance should:

— dismiss the application;

— make an order for costs in accordance with the applicable provisions.

The claim that the decision not to admit the applicant to take part in the competition should be declared null and void

Admissibility

The Parliament, without raising an objection of inadmissibility against the application, has none the less drawn the Court's attention to the question whether the application, lodged on 28 March 1990 against the decision of the selection board dated 22 November 1989, was made within the prescribed period. It adds that since the President of the selection board informed the applicant by letter of 16 October 1989 that her application had been rejected, the period of three months laid down in Article 91(3) of the Staff Regulations of officials of the

European Communities (hereinafter referred to as 'the Staff Regulations') was greatly exceeded.

19 The applicant claims that she submitted a complaint to the selection board pursuant to Article 90(2) of the Staff Regulations. She maintains that the period for bringing proceedings did not begin to run until 29 December 1989, the date on which she became aware of the decision of 22 November 1989 dismissing that complaint. She adds that, according to the case-law of the Court of Justice, the burden of proving the precise date of notification of a decision falls on the institution which made that notification.

20 It is apparent from the letter which the President of the selection board sent to the applicant on 22 November 1989 that the selection board, at the applicant's request, had reconsidered her application. In those circumstances, the decision adopted following that reconsideration, on 22 November 1989, replaced the previous decision and cannot be regarded as merely confirming that previous decision (see judgment of the Court of Justice in Case 206/85 *Beiten* v *Commission* [1987] ECR 5301, 5316). As a decision taken by a selection board in a competition may be challenged without any need for a prior complaint, time began to run upon the notification of that new decision. Since the Parliament adduced no evidence of the date on which that decision was notified, the Court has no alternative but to be satisfied with the statement of the applicant and accept that she was able to become aware of that decision only on 29 December 1989. Accordingly, the application for the annulment of that decision must be regarded as admissible.

Substance

21 During the written procedure, the applicant divided her complaints in respect of the decision rejecting her application into three pleas. The Court, however, considers it necessary to distinguish four submissions, based, first, on discrimination on the ground of nationality, secondly on the infringement of Article 48(3)(c) of the EEC Treaty, thirdly on the infringement of Article 27 et seq. and Article 110 of the Staff Regulations and fourthly on the lack of sufficient reasoning for the contested decision. It should be pointed out, moreover, that the applicant put forward, first in her answer to a question from the Court of First Instance, and then during the hearing, a fifth plea based on the inapplicability of Article 16 of the Greek Constitution on the ground of an alleged incompatibility of that provision with Articles 48 to 66 of the EEC Treaty.

The plea based on discrimination on grounds of nationality

2 In support of her contention that the refusal of her application constitutes an infringement of the principle prohibiting discrimination on grounds of nationality set out in Articles 7 and 48(2) of the EEC Treaty, the applicant claims that the degree awarded by Deree College is recognized by the competent English university authorities as giving access to postgraduate studies. In order to substantiate that claim, she annexed to her application a list of university institutes in the United Kingdom which have admitted graduates of Deree College to follow postgraduate studies. She infers therefrom that in the United Kingdom that degree has all the advantages conferred by a qualification certifying university studies, including the recognition of that qualification for vocational purposes and for access to corresponding posts in the civil service. In support of that contention, she argues that, if that were not the case, the absurd situation would arise in the case of a person with a degree awarded by Deree College who obtained a postgraduate qualification in the United Kingdom that his postgraduate qualification would be recognized while his university qualification would not be. She adds that the absurdity of that situation has led the Commission of the European Communities to recognize the degree awarded by Deree College as a diploma entitling the holder to take part in competitions organized for the recruitment of officials of Category A and LA.

The applicant claims that a United Kingdom national holding a degree awarded by Deree College would be admitted without reservation to take part in 'A' and 'LA' competitions of the European Communities owing to the fact that that qualification is recognized in his country of origin as a university qualification. A Greek national, on the other hand, would be deprived of that advantage, since the competent Greek authorities refuse to recognize that qualification as a university qualification.

In support of her arguments, the applicant refers to Council Directive 89/48/EEC of 21 December 1988 on a general system for the recognition of higher-education diplomas (Official Journal 1989 L 19, p. 16, hereinafter referred to as 'Directive 89/48'), which defines in subparagraph (a) of the first paragraph of Article 1 the term 'diploma' for the purposes of that directive. More particularly, she relies on the second paragraph of that provision, which provides that 'any diploma . . . awarded by a competent authority in a Member States' is to be treated in the same way as a diploma, within the meaning of the first paragraph 'if it is awarded on the successful completion of education and training received in the Community and recognized by a competent authority in that Member State as

being of an equivalent level and if it confers the same rights in respect of the taking up and pursuit of a regulated profession . . . '.

25 The applicant maintains that the qualification awarded by Deree College is recognized in the United Kingdom as being a qualification of equivalent level to university level and that its holder is thus entitled to take up and pursue a number of regulated professions such as English language teacher or translator. She adds that the education provided by Deree College within the Community is connected with a regulated profession, since this case concerns a competition organized for the recruitment of translators to the European Parliament and since the criteria for admission to take part in it are strictly defined. The applicant considers that the selection board in the competition thus ought to have taken Directive 89/48/EEC into consideration when determining what qualifications entitled those holding them to take part in the competition in question. She accepts that the directive is addressed to the Member States and that the period for transposing it into national law had not yet expired when she brought her application; however, she takes the view that the Parliament was none the less required to comply with its provisions, since the directive does not abolish the principle of reciprocity to which, according to the applicant, the Parliament adhered when that directive was adopted within the framework of the procedure for cooperation.

26 The applicant adds that this submission may not be dismissed on the ground that Article 48 of the Treaty is addressed only to the Member States and does not bind the Community institutions. She cites the case-law of the Court (judgments in Joined Cases 80 and 81/77 *Commissionnaires Réunis* v *Receveur des Douanes* [1978] ECR 927 and in Case 15/83 *Denkavit* v *Hoofdproduktschap voor Akkerbouwprodukten* [1984] ECR 2171) in support of her assertion that the provisions of the Treaty are also binding on the Community institutions.

27 In reply to the question from the Court as to whether the degree awarded by Deree College satisfies the condition in the 'Guide to candidates taking part in open competitions of the European Parliament', which provides that posts in Category A or LA require a diploma showing 'completion of university studies — in a university recognized in Greece or abroad . . . —' the applicant answered in the affirmative.

28 According to the applicant, that degree is evidence of completion of a course of university studies, since, first of all, access to Deree College is open only to

students who have successfully completed a course of secondary studies and who, in the case of students in the school of English language and philology, have shown adequate knowledge of English by undergoing a special examination; secondly, the duration of studies at Deree college is four years (eight semesters); thirdly, the programme of studies in the school of English language and philology is organized in such a way as to enable students to acquire the theoretical and practical grounding necessary to master the subject which they are studying, that programme being comparable to that in the corresponding school of the University of Athens; fourthly, the courses at Deree College are taught by highly qualified scientific staff and, fifthly and lastly, that degree is awarded to students after uninterrupted attendance at classes and success in the examinations which they must sit at the end of each stage of the course.

As regards the requirement that the diploma must have been awarded by a university recognized in Greece or abroad, the applicant points out in the first place that the 'Guide to candidates' does not define either the criteria governing the recognition of universities or the authority competent to recognize them. She considers that it follows from Directive 89/48/EEC that the only criterion for recognition of a university institute is that the diploma awarded by it must be recognized. The applicant argues further that since the Notice of Competition does not specifically determine the competent authority, it is immaterial what authority is competent to recognize a university institute; all that is required is that such recognition exists, which is so in the case of Deree College because it is recognized as a university institute of higher education by various universities in Europe and in the United States, as demonstrated by the list which she has produced as an annex to her application, and also by the Commission and the Council of the European Communities.

Requested by the Court to comment on the practical consequences of Article 16 of the Greek Constitution for holders of diplomas awarded by private educational institutes, the applicant explained that a distinction should be made between the private sector and the public sector. In the former sector, diplomas awarded both by Greek and by foreign educational institutes allow the holders to fill equivalent posts, with the same remuneration and conditions, without restrictions or formalities. As for the public sector, she explains that there is a distinction between the holders of diplomas awarded by private educational institutes situated abroad and the holders of diplomas awarded by private educational institutes established in Greece or by branches of foreign universities operating in Greece. Diplomas awarded by the first of those may be recognized by Dikatsa as equivalent to

diplomas awarded by Greek public educational institutes, in accordance with Law No 741/1977. Diplomas awarded by private educational institutes in Greece and by branches of foreign universities which provide education in Greece, on the other hand, are not validated by the Greek State and there is no procedure for recognition in their case. Consequently, holders of those diplomas may not, on the one hand, occupy posts in the public sector reserved for holders of higher-education diplomas or, on the other hand, either pursue regulated professions (lawyers, doctors, engineers, etc.) or become members of the corresponding professional associations.

31 At the hearing the applicant also claimed that the facts in this case may be distinguished on two points from those in Case 108/88 *Jaenicke Cendoya* v *Commission* [1989] ECR 2711, where the issue before the Court of Justice was whether a candidate for a competition had furnished proof of a university degree under the legislation of the Member State in which he had completed the studies in question. She first of all pointed out that it had not been claimed in the *Jaenicke Cendoya* case that the qualification in question was recognized as a university degree in another Member State. Secondly, she claimed that the national law applied in that case, unlike Greek law, had made provision for the contested diploma to be validated, a possibility of which the applicant had not availed himself.

32 In reply to a question put by the Court during the hearing, the applicant stated that she was unable to say whether the degree awarded by Deree College was recognized by all the universities in the United Kingdom as a qualification giving access to postgraduate studies, or provide further support for her claim that holders of the degree of bachelor of arts awarded by Deree College could obtain posts in the British civil service which required a higher-education diploma. She did offer, however, to obtain the relevant information and to submit it to the Court of First Instance.

33 The defendant counters that submission by pointing out that Article 48 of the EEC Treaty is addressed to the Member States and, accordingly, does not apply to this case, which is concerned with decisions adopted by the Community institutions regarding the recruitment of their staff. The European Parliament further considers that it would be wrong to treat candidates for a competition as workers within the meaning of Article 48 of the Treaty.

4 With regard to Directive 89/48, the defendant points out that the only persons to whom it is addressed are the Member States and that it lays down a period for its transposition which does not expire until 4 January 1991. It adds in its rejoinder that that directive makes no provision for automatic recognition of higher-education diplomas. It points out that pursuant to Article 1 the directive concerns only the recognition of diplomas awarded by 'a competent authority' in a Member State. It states that, in the present state of affairs, the Greek authorities do not recognize Deree College as a university institute and concludes that that institute may not be regarded, in the words of the directive, as a 'competent authority' empowered to award diplomas, certificates or other evidence of formal qualifications. It adds that, having regard to Article 16(5) of the Greek Constitution, that state of affairs is not certain to change upon the expiry of the period laid down for the transposition of the directive.

5 The Parliament adds that the documents produced by the applicant do not show that holders of degrees awarded by Deree College are generally and unconditionally admitted to a number of universities in the United Kingdom, but reveal only various instances where holders of those degrees have been admitted up to now.

With regard to the question put by the Court whether the qualification awarded by Deree College corresponds to the definition of diploma required in the European public service for posts in Categories A and LA as set out in the 'Guide to candidates', the defendant answered in the negative. In that respect, it referred to the case-law of the Council of State of the Hellenic Republic, described above, and to the Greek Constitution.

With regard to the practical consequences of Article 16 of the Constitution, the defendant observes that it follows from that provision that the operation of private institutes of higher education is prohibited. It follows that, even though such institutes may operate in Greece *de facto*, they do not exist there *de jure*, as is confirmed by the abovementioned decision of the Council of State. The defendant adds that an alteration of that situation would require a constitutional amendment.

With regard to the pursuit of a profession, the Parliament confirms that, subject to the necessary qualifications consisting of studies of university level evidenced by a diploma recognized in Greece, the holders of diplomas awarded by a private educational institute may apply for any other post.

38 To the question whether the selection board for the competition was in this case led — in application of the rules for evaluating qualifications set out in paragraph 2 of the 'Guide to candidates' — to admit to the competition a candidate producing evidence of a degree of bachelor of arts awarded by another 'College' of the same type and the same level, situated in the United States and recognized by the New England Association of Schools and Colleges, the Parliament replied that no candidate whose only qualification was a degree of bachelor of arts which was not recognized by Dikatsa was admitted by the selection board for the competition.

39 It should first of all be pointed out that the selection board gave as the reason for the contested decision the fact that studies pursued at Deree College in Athens were not recognized as university studies by the Greek State. Such a reason does not constitute an assessment of the value of the studies in question and thus does not come within the specific powers of the selection board to evaluate the quality of the studies carried out by candidates, a sphere in which it has a wide discretion. It is, on the contrary, of a purely legal nature. The Court's review of the legality of the contested decision should not therefore be confined to examining whether there were any manifest errors of assessment by the selection board; it is necessary to ascertain whether in this instance the selection board correctly applied the relevant legal rules (see judgment of the Court of Justice in Case 108/88 *Jaenicke Cendoya*, cited above).

40 The Court considers that by this plea the applicant maintains essentially that the evaluation of her qualification by the selection board for competition PE/137/LA in the light of Greek law alone is contrary to Directive 89/48 and fails to take into account the fact that her qualification is recognized as a university degree in the United Kingdom, which, according to the applicant, constitutes discrimination on the ground of nationality.

1 The Court considers that it is necessary to examine, first of all, whether Directive 89/48 could have the effect of requiring the selection board to recognize the applicant's qualification as a university degree.

2 With regard to the effects of directives in general, it should be pointed out that it follows from the third paragraph of Article 189 of the Treaty, which provides that 'a directive shall be binding, as to the result to be achieved, upon each Member State to which it is addressed, but shall leave to the national authorities the choice of form and methods', that a directive imposes upon the Member States to which it is addressed an obligation to achieve a certain result, which must be fulfilled by the end of the period laid down in the directive itself. It is only where a Member State has not adopted the implementing measures required by the directive within the prescribed period that that obligation can give rise to rights which individuals may invoke as against that Member State (see, for example, judgment of the Court of Justice in Case 8/81 *Becker* v *Finanzamt Münster-Innenstadt* [1982] ECR 53, 70 et seq.). It follows that the expiry of the period laid down for implementing the directive is an indispensable condition for the effects of a directive to be able to change from an obligation on the Member States to adopt implementing measures into rights which individuals are able to assert.

3 Directive 89/48, which was notified to the Member States on 4 January 1989, provides in Article 12 that the Member States are required to comply with it within a period of two years from that date. The period for implementation thus expired more than one year after the contested decision was adopted by the selection board. The effects of that directive were thus confined on the date of the contested decision to an obligation on the Member States to adopt the measures necessary to comply with it. The directive was, on the other hand, not capable of producing rights which could be relied on by individuals.

Furthermore, while that directive is intended to establish a system of mutual recognition of diplomas between the Member States of the Community, it does not seek to impose unconditional recognition of diplomas. Thus Article 4 of the directive allows the Member States, in certain circumstances, to permit holders of foreign diplomas to take up or pursue regulated professions only where additional requirements are satisfied. Even though the Member States are given such wide discretion to make the implementation of the directive subject to certain restrictive rules, the Court does not rule out the possibility that the provisions of that directive may be sufficiently unconditional and precise to be recognized as having

effects capable of being relied on by individuals as against a Member State. A Member State which has failed to fulfil its obligation to transpose a directive may not thwart the rights to which it gives rise for the benefit of individuals by relying on the possibility of making the exercise of those rights subject to certain rules, even though it would have been entitled to exercise that option had it adopted the measures necessary to implement the directive (for a similar option concerning the restriction of the amount of the guarantee of payment to workers of debts remaining unpaid owing to the insolvency of the employer, see the judgment of the Court in Joined Cases C-6/90 and C-9/90 *Francovitch and Bonifaci* v *Italian Republic* [1991] ECR I-5357, paragraph 21). However, until the period for the transposition of the directive has expired, the fact that the Member States are entitled to introduce restrictive rules necessarily prevents individuals from relying on rights based on the directive.

45 Furthermore, it follows from Article 3 of Directive 89/48 that the purpose of that directive is to achieve recognition in one Member State of the diplomas awarded in other Member States. It is aimed at situations in which individuals wish to pursue a profession in a Member State other than that in which they acquired their qualifications, situations which thus have a transfrontier element. The issue in this case, however, is not whether a diploma giving access to a regulated profession in the Member State in which it was awarded must be recognized by another Member State, but concerns the fact that a qualification is not recognized by the Member State in which it was acquired. Directive 89/48 does not govern such a purely internal matter of this type involving only one Member State.

46 Finally, the Court points out that, according to Article 1 of that directive, it is for the national law of each of the Member States to determine the authorities empowered to award on its territory the diplomas entitling their holders to take up or pursue regulated professions and also the requirements to be met by those diplomas. In accordance with Article 1 of the directive, a diploma awarded by the competent authority of a Member State may indeed also certify — under certain conditions — education received in another Member State. That alternative, however, is of no relevance in this instance, where the only qualification relied on by the applicant was awarded to her in the very State in which she pursued her studies. It is the legislation of that State alone, therefore, which is called upon, within the framework of the system of mutual recognition of diplomas which Directive 89/48 is intended to establish, to determine the legal value of such a qualification.

7 In those circumstances, Directive 89/48 provides no basis on which the selection board could rely to recognize the applicant's qualification as having the value of a university degree. There is thus no need for the Court to rule, in this instance, on the more general question whether the provisions of that directive are capable of producing effects which individuals may invoke not only against the Member States but also against the Community institutions.

8 The Court considers that it is appropriate to examine next whether the decision of the selection board complied with the terms of the Notice of Competition. That notice contained no provision to prevent the term 'university degree' from being understood by the selection board as referring to the definition given to that term in the Greek legislation. The 'Guide to candidates' even specified that the requisite diploma must certify completion of a course of studies at 'universities recognized in Greece or abroad', which indicates that the reference was to qualifications awarded by universities recognized in the country in which they provided education.

9 In those circumstances, it must be noted that in the absence of any provision to the contrary contained in either a regulation or a directive applicable to competitions organized by the Community institutions for the purposes of recruitment or in the Notice of Competition, the requirement of possession of a university degree is necessarily to be construed in the light of the definition of such a degree in the legislation of the Member State in which the candidate completed the studies on which he relies (see judgment of the Court of Justice in the *Jaenicke Cendoya* case, cited above, at p. 2739 and the judgment of the Court of First Instance in Case T-2/90 *Ferreira de Freitas* v *Commission* [1991] ECR II-103).

10 That analysis corresponds, moreover, to the division of powers between the Community and the Member States in the sphere of education as set out in the EEC Treaty. Community law extends to the sphere of education, in particular where access to, and participation in, courses of vocational training are concerned (see, for example, judgment of the Court of Justice in Case 293/83 *Gravier* v *City of Liège* [1985] ECR 593, 612), and university studies, in the majority of cases, meet the criteria defining the term 'vocational training' (see judgment in Case 24/86 *Blaizot* v *University of Liège* [1988] ECR 379). Article 57 of the EEC Treaty, moreover, empowers the Council to issue directives for the mutual recognition of diplomas. The fact remains, however, that educational organization and

policy are not as such included in the spheres which the Treaty has entrusted to the Community institutions (see, for example, judgments of the Court of Justice in the *Gravier* case, cited above, in Case 197/86 *Brown* v *Secretary of State for Scotland* [1988] ECR 3205 and in Case 242/87 *Commission* v *Council*, the 'Erasmus' case, [1989] ECR 1425, at p. 1457).

51 Since the organization of university education provided on their territory comes within the competence of the Member States, the rule imposing on Member States and the Community institutions mutual duties of sincere cooperation, as embodied in particular in Article 5 of the EEC Treaty, requires the institutions to have regard to the rules adopted by the Member States within the framework of that competence (see judgment of the Court of Justice in Case 230/81 *Luxembourg* v *Parliament* [1983] ECR 255, 287). That is particularly so where, as here, provisions of constitutional law are involved.

52 It follows that the selection board had in this instance to consider whether the applicant had produced a diploma certifying university studies within the meaning of the Greek legislation.

53 With regard to the evaluation of the applicant's qualification from the point of view of Greek law, it is apparent from the answers to the questions put by the Court to the parties and the Greek Government that that qualification, being awarded by a private institute, is not a university degree in the eyes of Greek law. The strict exclusion by Greek constitutional law of any recognition of such a qualification as a university degree is also confirmed by the judgment of the Council of State of the Hellenic Republic of 8 June 1990, cited above, where it was held that the relevant provisions of the constitution preclude even indirect recognition through the validation of a foreign diploma awarded on the basis of a qualification awarded by a private educational institute established in Greece. In those circumstances, the selection board correctly applied Greek law when it refused to regard the qualification awarded to the applicant by Deree College as a diploma certifying 'appropriate university education' within the meaning of the Notice of Competition.

54 However, the fact that it applied the law of a Member State does not relieve the selection board of its obligation to comply with the principle of non-discrimination

on the ground of nationality, invoked by the applicant. While the applicant referred to Articles 7 and 48(2) of the EEC Treaty, it should be pointed out that the Staff Regulations, in particular Articles 5(3), 7(1) and 27, also contain rules prohibiting any inequality of treatment based on nationality. Although the applicant did not expressly cite those rules, which apply more particularly in the context of Community staff law, she did claim in her submission that the principle expressed therein had been infringed. There is thus no need to determine whether Articles 48(2) and 7 of the Treaty apply to officials and candidates for the Community public service in their relations with the institutions since it makes no difference to the validity of this submission.

65 The fact that the qualifications submitted by candidates for a competition are evaluated according to the law of the Member State in which they pursued their studies does not, however, entail any difference in treatment between candidates who are nationals of different Member States. According to that rule all candidates who have followed the same training are treated in the same way with regard to their participation in competitions of the Community institutions, whatever their nationality and whatever the legal status of their qualification in their country of origin. The selection board, in accordance with the criterion which it applied, would thus also have had to refuse to admit to the competition a candidate who was a national of the United Kingdom who was relying on a diploma awarded by Deree College in Athens.

66 At the hearing the applicant again sought to distinguish the facts in this case from those in the *Jaenicke Cendoya* case (Case 108/88, cited above) on the ground that a diploma awarded by Deree College was recognized in the United Kingdom. In that respect, it should be pointed out that, even if the Member States are free to confer on foreign qualifications greater effects than those recognized by the law of the Member State in which they were awarded, such effects concern only the value of those qualifications under the law of the Member State recognizing them. Moreover, the links between that State and the diploma in question are not as close as those existing between that diploma and the State on whose territory the education which it certifies was provided. The latter State is, in particular, in a better position than the other Member States to evaluate whether that education is appropriate for the requirements of a university education. It follows that an administrative practice such as that invoked by the applicant, which is more favourable to graduates of Deree College than the contested decision of the selection board, cannot bind the selection boards for competitions of the institutions.

57 It should also be pointed out that the applicant has not established to the requisite legal standard that her qualification gives access in the United Kingdom to post-graduate studies or to vocational activities whose pursuit, according to the domestic law of that State, requires a university education. It was only at the hearing that she offered to obtain evidence from all the universities of that Member State, and from the competent authorities in matters of access to the civil service, with a view to showing that the qualification awarded by Deree College is sufficient to give automatic access to postgraduate studies or to certain posts in the civil service. Since the applicant gave no reason which had prevented her from offering that evidence in her application, it is necessary, pursuant to Article 48(1) of the Rules of Procedure of the Court of First Instance, to reject it as out of time.

58 The applicant maintains finally that the application of the law of the Member State in which the studies were pursued must be made conditional on the existence, in the legal system of that State, of a procedure for the validation of diplomas certifying education provided on its territory by private institutes. However, it is within the powers of the Member States in the matter of the organization of education to define the status of private educational institutes operating on their territory and to determine whether the qualifications awarded by those institutes may be given official recognition. The system adopted by a Member State in that respect must be observed by the Community institutions, provided that it is not contrary to specific provisions of Community law.

59 It follows from the foregoing reasoning that the plea based on discrimination on the ground of nationality, owing to the fact that the selection board evaluated the applicant's diploma from the aspect of Greek law alone, is unfounded.

The plea based on an infringement of Article 48(3)(c) of the EEC Treaty

60 The applicant is of the opinion that the refusal of the selection board to admit her to take part in the competition in question constitutes a manifest restriction of the freedom of establishment of workers, directly contrary to Article 48(3)(c) of the Treaty. In her view, the decision of the selection board dismissing her application restricts her free choice of employment by obliging her to seek a post calling for qualifications lower than those which her diploma certifies her as having. From

that point of view, she again claims that the provisions of the Treaty are binding not only on the Member States but also on the Community institutions.

51 The applicant further maintains that the term 'worker' referred to in Article 48 of the EEC Treaty must be interpreted widely so as to include candidates for a competition. She states that the rules of the Treaty ensure freedom of movement for persons pursuing, as well as for those seeking to pursue, an economic activity and that they are applicable where a worker wishing to pursue a permanent vocational activity goes for that reason to another Member State and where his intentions take the concrete form of serious and sincere steps, as in her own case. She thus considers that even the mere prospect of permanent employment allows her to rely on Article 48 of the Treaty.

52 With regard to this submission, too, the defendant denies that Article 48 applies to the acts of the Community institutions in the matter of recruitment. It rejects the applicant's argument that the refusal of the selection board to admit her to the competition is in her case prejudicial to the freedom to stay guaranteed by Article 48(3)(c) of the Treaty. The defendant considers that the applicant is unable to claim the right to stay on the ground that her diploma allowed her to exercise a specific post, since such an analysis is incompatible with the fact that being admitted to take part in a competition does not in any way guarantee success, recruitment or an offer of employment. According to the defendant, the mere prospect of receiving an offer of employment after taking part in a competition does not serve to justify rights arising under Article 48 of the Treaty, rights which, moreover, are granted only to employees who 'pursue an activity which is effective and genuine', as the Court of Justice held in its judgment in the *Brown* case, cited above. The Parliament adds that the decision to reject Mrs Panagiotopoulou's application, a decision which in any event was not determined by any considerations of nationality, was not capable of preventing her from moving and staying within the Community in order to seek employment.

53 It should be pointed out that Article 48(3)(c) of the Treaty guarantees workers the right to stay in a Member State for the purpose of employment in accordance with the provisions governing the employment of nationals of that State. That guarantee concerns the legal position of workers in relation to the Member State on whose territory they work; however, it has no place in the relations between the Community institutions and candidates for the European civil service. It follows

that the plea based on an infringement of Article 48(3)(c) of the EEC Treaty is unfounded.

The plea to the effect that Article 16 of the Greek Constitution is incompatible with Articles 52 to 66 of the EEC Treaty

64 In her answer to the fourth question put to the parties by the Court, the applicant also examined the compatibility with Community law of Article 16 of the Greek Constitution. After noting that the EEC Treaty does not expressly include the sphere of 'education' either in the definition of the task or activity of the Community or anywhere else, she infers from Article 128 of the EEC Treaty and the case-law of the Court of Justice relating thereto (see in the *Gravier* case, cited above, the *Blaizot* case, cited above and Case 147/86 *Commission* v *Greece* [1988] ECR 1637, in particular the Opinion of Advocate General Sir Gordon Slynn at p. 1638 et seq.), that private education none the less comes within the sphere of action of the European Communities. She adds that the Court of Justice has recognized that a common policy is in the process of being established in the sphere of vocational training and that the European Communities have begun to adopt the first measures intended to outline a common educational policy.

65 According to the applicant, it is contrary to Articles 48 to 66 of the EEC Treaty on the free movement of workers, freedom of establishment and the free movement of services for individuals, whether they are nationals of the Member State in question or persons having another nationality, to be prohibited altogether by a provision of constitutional status from exercising an economic activity. At the hearing, she expressed the view that such a rule should not be applied by a selection board to refuse admission to a competition.

66 The applicant adds that the provision of services in the sphere of higher education does not come within the exception laid down by Article 55 of the EEC Treaty. She cites the judgment of the Court of Justice in the aforesaid case of *Commission* v *Greece* to support her claim that the term 'official authority' referred to in Article 55 must be interpreted restrictively and that the fact that, under the Greek constitution, education is a fundamental duty of the State does not imply that that duty is reserved exclusively to the State and that its performance automatically comes within the exercise of official authority.

67 At the hearing, the Parliament replied that no-one was entitled to ask a selection board for a competition to disregard the constitution of a Member State and that it had not been shown that Article 16 of the Greek Constitution was contrary to Community law.

68 Article 48(2) of the Rules of Procedure of the Court of First Instance provides that no new plea in law may be introduced in the course of the proceedings unless it is based on matters of law or of fact which come to light in the course of the procedure.

69 When asked by the Court of First Instance whether this plea was not out of time, the representative of the applicant explained at the hearing that the provisions of the chapters of the Treaty concerning freedom of establishment and freedom to provide services had not been mentioned in the application because the applicant had not considered that the contested decision was directly contrary to those provisions, since she was not seeking either to establish herself in order to exercise self-employed activities or to provide services. Those provision were invoked solely in conjunction with Article 16 of the Greek Constitution in the answer to the question concerning that provision put by the Court.

70 On the question whether this plea has been raised in due time, it must be observed that the applicant is claiming that the prohibition of the exercise of a specific economic activity, namely any operation of a private institute for university education in Greece, is incompatible with Community law. Although she cites Articles 48 to 66 of the EEC Treaty in that respect, it should be pointed out that neither the case of an obstacle to the free movement of workers employed in the sphere of university education nor the case of education provided in Greece by an institution established in another Member State has any connection with the applicant's complaint or indeed with the facts of this case. Consequently, neither Article 48 et seq., on the freedom of movement for workers, nor Article 59 et seq., on the freedom to provide services, come within the scope of the complaint

formulated by the applicant, which is concerned only with the freedom of establishment laid down in Article 52 of the Treaty.

71 While the applicant's freedom of establishment is not itself directly affected in this instance, she none the less complains that she has been the victim of the application of a provision of national law which, in her view, was inapplicable because it was incompatible with Article 52 of the Treaty. By thus claiming that the selection board's decision was based on a national provision contrary to that article, the applicant necessarily maintains that the contested decision is also contrary thereto. This plea therefore is essentially based on an infringement of Article 52 of the EEC Treaty.

72 The applicant cannot justify introducing this plea out of time by referring to Article 52 of the Treaty in reply to a question put by the Court concerning Article 16 of the Greek Constitution. It was clear, at the outset from the time when the selection board communicated to the applicant the decision adopted after reconsidering her application, that it had been rejected on the basis of provisions of Greek law which preclude private educational institutes from being regarded as universities. The applicant should therefore have considered when bringing these proceedings all the factors which could lead her to challenge the compatibility of those rules of national law with the principles of the Treaty. It follows that this plea is not based on matters of fact and law which came to light during the written procedure. It must therefore be dismissed.

73 It should in any event be pointed out, moreover, that Article 16 of the Greek Constitution prohibits the establishment of private universities not only by the nationals of the other Member States but also by Greek nationals. According to the second paragraph of Article 52 of the EEC Treaty, freedom of establishment is to include the right to take up activities as self-employed persons under the conditions laid down for its own nationals by the law of the country where such establishment is effected. A prohibition which entails no discrimination between Greek nationals and the nationals of the other Member States is thus not contrary to freedom of establishment. That principle, moreover, was applied by the Court of Justice in its judgment in *Commission* v *Greece*, cited above, to the prohibition on establishing private schools providing vocational training which follows, in the

absence of any law authorizing such schools, from Article 16(7) of the Greek Constitution. Since that prohibition applied without discrimination to Greek nationals and to the nationals of the other Member States, the Court of Justice declared that it was not contrary to the Treaty (*Commission* v *Greece*, cited above, at 1655).

74 It follows that the claim that Article 16 of the Greek Constitution is inapplicable must be dismissed.

The plea based on the infringement of Article 27 et seq. of the Staff Regulations, Article 1(1)(d) of Annex III to the Staff Regulations and Article 110 of the Staff Regulations

75 In support of this plea, the applicant claims that the Commission admits holders of diplomas awarded by Deree College to take part in competitions for posts in Categories A and LA, whereas as far as the Parliament is concerned they may take part only in competitions aimed at the recruitment of officials in Category B. The applicant considers that that treatment is discriminatory. She claims that the qualifications required by the Staff Regulations in order to become an official are common to all the institutions. She accepts that the decision of one institution is not binding on the other institutions, but she considers that each institution is required to take into consideration the decisions taken by the others in order to avoid discrepancies in the application of the Staff Regulations. According to the applicant, the selection board for Competition No PE/137/LA, once it learned that the Commission followed a different practice, should have asked for consultations to be held, in accordance with Article 110 of the Staff Regulations, in order to harmonize the policy of the institutions on that point. The applicant adds that the Parliament thus failed to take account of the fact that the sole reason why Greece does not recognize the diploma in question is that under the Greek Constitution studies at university level are to be organized only by the Greek State. She infers therefrom that the failure by the Greek State to recognize the diploma in question does not mean that the corresponding studies are not of a university level. She considers that the validity of her argument is demonstrated by the fact that that diploma is accepted as equivalent to a university degree by the universities of other Member States and also by the Commission and the Council. In support, she has annexed to her statement in reply to the defence a letter of 8 May 1990 informing her that she was admitted to take part in an open competition (Council/A/319) organized by the Council for the recruitment of administrators.

76 The defendant contends that Article 110 of the Staff Regulations does not constitute an obligation for the Community institutions to adopt the same decisions regarding the implementation of the Staff Regulations. It states that the first paragraph of Article 110 expressly allows each institution to adopt general provisions for giving effect to the Staff Regulations. The Parliament considers that that article imposes no obligation on the institutions and their selection boards to harmonize or coordinate the organization of competitions and, in particular, the adoption of individual decisions in that sphere.

77 The Parliament further refers to the case-law of the Court of Justice in support of the view that it is a matter for the selection board to make an independent assessment in each case as to whether the certificates produced or the professional experience of each candidate correspond to the level required by the Staff Regulations (judgment in Case 44/71 *Marcato* v *Commission* [1972] ECR 427, at p. 434). It contends further, referring to the judgment of the Court of Justice in Case 178/88 *Szemerey* v *Commission* [1979] ECR 2855, at p. 2863, that each selection board has the discretionary power to demand the completion of a full university education in the country of origin. According to the Parliament, that power, in the absence of a Community definition of the concept of 'university qualification', makes it possible to recognize only university studies certified by a diploma officially recognized in the country of origin. In that respect, it refers to the judgment of the Court of Justice in the *Jaenicke Cendoya* case, cited above.

78 Moreover, the Parliament relies on the judgment of the Court of Justice in Case 143/82 *Lipman* v *Commission* [1983] ECR 1301, at p. 1311 in observing that competitions are independent of one another, being organized according to different procedures and pursuing different aims, which means that a candidate cannot rely upon the conditions for admission to another competition, even one organized by the same institution. It further contends that the sole objective of Article 1(1) of Annex III to the Staff Regulations is to specify the items that must be contained in each notice of competition and that its provisions are thus not to be regarded as regulating the content of those items. Finally, the Parliament contends that the applicant's argument that the studies which she pursued in the institute in question were of university standard is not of such a kind as to remove its doubts in that respect.

79 With regard to this plea, by which the applicant claims that the principle of equal treatment in relation to candidates for competitions of other institutions has been infringed, it should be pointed out, first of all, that assessing whether a particular course of studies or degree is of a university standard is an *ad hoc* task which each selection board performs, taking into account the special features and requirements of each competition (see judgment of the Court of Justice in the *Jaenicke Cendoya* case, cited above, at p. 2740). It should then be pointed out that in this instance neither any provision in the Notice of Competition nor any other fact allowed the selection board, when assessing whether the applicant's diploma was of a university standard, to disregard the law of the Member State in which she had pursued her studies. Since in those circumstances the selection board had no discretion in evaluating the diploma but confined itself to a purely legal examination aspect, the fact that other institutions may possibly have admitted candidates to competitions for Category A or LA on the basis of a diploma awarded by Deree College alone is irrelevant.

80 It follows that the plea based on the infringement of Article 27 et seq., Article 1(1)(d) of Annex III and Article 110 of the Staff Regulations is unfounded.

The statement of the reasons for the contested decision

81 Within the framework of the arguments adduced in her reply to the previous plea, the applicant also invoked the case-law of the Court of Justice regarding the duty of every selection board for a competition to give particular reasons for its decision where its appraisal departs from the appraisal of the same candidate in a previous competition (judgments in Case 112/78 *Kobor* v *Commission* [1979] ECR 1573; Case 108/84 *De Santis* v *Court of Auditors* [1985] ECR 947; and Case 225/87 *Belardinelli* v *Court of Justice* [1989] ECR 2353). The applicant recognizes that that duty applies only where the candidate has drawn the attention of the selection board to that point. She states that she expressly informed the selection board in her complaint of 6 November 1989 that holders of a diploma awarded by Deree College had been admitted to take part in a competition of a corresponding level organized by the Commission, and that she also produced a letter from the Commission recognizing the qualification in question as a university qualification. The applicant claims that the Parliament failed to take account of those factors in its decision of 22 November 1989 and that it took refuge behind the fact that the

diploma was not recognized by the Greek State rather than attempt to state the reasons for its decision more fully or in greater detail.

82 With regard to the reasons for the decision dismissing the applicant's application, the Parliament states that the decision of 22 November 1989 clearly explains two decisive factors laid down in the case-law of the Court of Justice, namely, first of all, the independent character of the organization of the work and of the discretionary power of each selection board and, secondly, the reference to the national legislation in the matter of the recognition of university diplomas in force in the State of origin. The Parliament regards that statement of the reasons as adequate.

83 Although the applicant raised the plea based on the alleged inadequacy of the statement of the reasons for the contested decision only at the stage of her reply, and thus out of time for the purposes of Article 48(2) of the Rules of Procedure of the Court of First Instance, the Court is bound to inquire of its own motion whether the contested decision was adequately reasoned (see judgment of the Court of First Instance in Case T-115/89 *Gonzales Holguera* v *Parliament* [1990] ECR II-831).

84 In that respect, it should be pointed out that the case-law of the Court of Justice regarding the duty of selection boards to give particular reasons for refusing to admit a candidate to take part in a competition applies only where the appraisal by the selection board of a candidate has been less favourable that the appraisal of the same candidate in a previous competition and where the requirements of the previous competition were the same as or more demanding than those of the competition in issue (see judgment in the *Gonzales Holguera* case, cited above).

85 The applicant has referred to only one competition in which she received a more favourable evaluation than in the competition in issue, namely Open Competition Council/A/319 for the recruitment of administrators. However, that competition took place after Competition No PE/137/LA. In those circumstances, the selection board was not required in this instance to state particular reasons for its decision.

86 It should be pointed out further that 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 information to allow him to ascertain whether or not the decision is well founded and to enable the Court to review the decision (see, for example, judgment of the Court of First Instance in the *Gonzales Holguera* case, cited above). While the letter of 16 October 1989 informing the applicant that her application had been rejected by the selection board merely stated that the applicant did not satisfy the condition of university education attested by a diploma or equivalent professional experience, the letter of 22 November 1989, by which the decision at issue in these proceedings, taken after her application had been reconsidered, was communicated to the applicant, clearly explained the reason why the selection board had not considered the qualification awarded by Deree College to be a university diploma and also indicated that the selection board did not consider itself bound by the decisions referred to by the applicant, according to which holders of the same qualification had been admitted to take part in competitions organized by the Commission for posts in Category LA. That information provided the applicant with all the details necessary to ascertain whether or not the rejection of her application was well founded and to ensure the protection of her rights before the Community judicature, which is, moreover, demonstrated by the arguments which she has put forward in these proceedings.

87 It follows that the plea that the decision refusing to admit the applicant to the contested competition was inadequately reasoned must be dismissed.

The other orders sought by the applicant

88 Since all the pleas put forward by the applicant in support of her application must be dismissed, it must be declared that her requests to have the diploma awarded to her by Deree College recognized as a diploma of university level, to have the refusal to admit her to take part in competition No PE/137/LA declared unlawful and to have that competition and the list of successful candidates annulled are not

unfounded. They must thus be dismissed without its being necessary for the Court of First Instance to rule on their admissibility.

89 It follows from all the foregoing considerations that the application must be dismissed.

Costs

90 Under Article 87(2) of the Rules of Procedure of the Court of First Instance, the unsuccessful party is to be ordered to pay the costs. However, under Article 88 of those Rules the institutions are to bear their own costs in proceedings brought by servants of the Communities. Each party must therefore be ordered to pay its own costs.

On those grounds,

THE COURT OF FIRST INSTANCE (Fifth Chamber)

hereby:

1. Dismisses the application;

2. Orders the parties to bear their own costs.

Lenaerts Barrington Kirschner

Delivered in open court in Luxembourg on 11 February 1992.

H. Jung
Registrar

K. Lenaerts
President