

JUDGMENT OF THE COURT OF FIRST INSTANCE (Fifth Chamber)
10 April 2003

Case T-186/01

Nicole Robert
v
European Parliament

(Officials – Actions – Deadlines – Inadmissibility)

Full text in French II - 631

Application for: annulment of the decision of the Parliament not to promote the applicant to Grade B 1 in the promotion year 1999.

Held: The application is dismissed as inadmissible. Each of the parties is to bear its own costs.

Summary

*1. Officials – Appeals – Prior administrative complaint – Time-limit – Matter of public policy – Expiry – Excusable error – Meaning
(Staff Regulations, Arts 90 and 91)*

*2. Officials – Appeals – Prior administrative complaint – Same subject-matter and legal basis – Pleas put forward in the action not covering all the claims of the complaint – Inadmissible
(Staff Regulations, Arts 90 and 91)*

1. The time-limits prescribed in Articles 90 and 91 of the Staff Regulations for lodging complaints and bringing proceedings are intended to ensure the clarity and certainty of legal situations and are a matter of public policy, so that they cannot be left to the discretion of the parties or the Court. Any exceptions to or derogations from those time-limits must be interpreted restrictively.

The concept of excusable error, in the context of time-limits for initiating proceedings, can concern only exceptional circumstances in which, in particular, the conduct of the institution concerned has been, either alone or to a decisive extent, such as to give rise to pardonable confusion in the mind of a party acting in good faith and exercising all the diligence required of a normally experienced person. That is not the case where the administration sends a letter to a complainant in which it apologises for the delay in examining his complaint and gives an assurance that it will be dealt with as soon as possible, without any attempt to dissuade the person concerned from appealing against the implied decision to reject the complaint.

(see paras 48, 54-56)

See: C-246/95 *Coen* [1997] ECR I-403, para. 21; T-33/89 and T-74/89 *Blackman v Parliament* [1993] ECR II-249, para. 34; T-514/93 *Cobrecaf and Others v Commission* [1995] ECR II-621, para. 40; T-131/95 *Progoulis v Commission* [1995] ECR-SC I-A-297 and II-907, para. 36; T-142/00 *Van Huffel v Commission* [2001] ECR-SC I-A-219 and II-1011, para. 28

2. The rule of consistency between the complaint and the application initiating legal proceedings requires that, if it is to be admissible, any plea put forward before the Court must have been raised already in the context of the pre-litigation procedure, to enable the appointing authority to know in sufficient detail the criticisms which the person concerned is making against the contested decision.

(see para. 64)

See: T-496/93 *Allo v Commission* [1995] ECR-SC I-A-127 and II-405, para. 26