

JUDGMENT OF THE COURT OF FIRST INSTANCE (Fifth Chamber)
22 February 2001

Case T-144/00

Daniela Tirelli
v
European Parliament

(Officials – Upgrading – Secretarial allowances – Article 46 of the Staff
Regulations – Transfer between institutions – Inadmissibility)

Full text in French II - 171

Application for: first, annulment of the decision of the Parliament refusing to grant the secretarial allowance to the applicant and, second, compensation for alleged non-material damage

Held: The claims for annulment relating to the promotion of the applicant to Grade B 4 are dismissed as inadmissible. The claim for compensation for the non-material damage allegedly caused by the discriminatory conduct of the Parliament with regard to the promotion of the applicant to Grade B 4 is dismissed. The remainder of the application is dismissed as unfounded. Each of the parties is ordered to bear its own costs.

Summary

*1. Officials – Actions – Prior administrative complaint – Subject-matter – Application to the Court in conformity with the complaint – Head of claim not included in the complaint – Inadmissibility
(Staff Regulations, Arts 90 and 91)*

*2. Officials – Actions – Action for damages directly linked to an action for annulment – Admissibility notwithstanding the absence of pre-litigation procedure in accordance with the Staff Regulations
(Staff Regulations, Arts 90 and 91)*

*3. Officials – Salary – Amendment on promotion – Not possible to reduce basic salary – Scope
(Staff Regulations, Arts 46, second para., and 91)*

1. The admissibility of actions brought by officials is contingent upon their compliance with the pre-litigation procedure, the purpose of which is to permit an amicable settlement of the differences which have arisen between officials or servants and the administration. In order that such a procedure may fulfil its purpose, it is necessary for the appointing authority to know in sufficient detail the criticisms made of the contested decision by those concerned. Consequently, any head of claim which was not relied on in the administrative complaint, although the official concerned was in a position to rely on it, must be rejected as inadmissible.

(see para. 25)

See: T-588/93 *G v Commission* [1994] ECR-SC I-A-277 and II-875, para. 27; T-242/97 *Z v Parliament* [1999] ECR-SC I-A-77 and II-401, para. 58

2. Where there is a direct link between an action for annulment and an action for damages, the action for damages is admissible as being ancillary to the action for annulment, without necessarily having to be preceded by a request to the appointing authority for compensation for the damage allegedly suffered and a complaint challenging the correctness of the implied or express decision rejecting the request.

(see para. 29)

See: T-78/96 and T-170/96 *W. v Commission* [1998] ECR-SC I-A-239 and II-745, para. 157

3. Article 62 of the Staff Regulations provides that remuneration is to comprise basic salary, family allowances and other allowances. According to that article there is a clear distinction between the terms 'basic salary' and 'allowances'.

The rule in the second paragraph of Article 46 of the Staff Regulations, that an official appointed to a higher grade is in no case to receive a basic salary lower than that which he would have received in his former grade, is not applicable to the salary of an official as a whole as defined in Article 62, since it refers only to the basic salary.

(see paras 38, 40)