

JUDGMENT OF THE COURT OF FIRST INSTANCE (Third Chamber)
17 February 1998

Case T-91/96

Nicole Hankart
v
Council of the European Union

(Officials – Open competition – Practical measures of organisation – Loss of a
written test – Non-admission to the following test)

Full text in French II - 149

Application for: annulment of the decision of the Selection Board in Open
Competition Conseil/C/360 of 13 March 1996 not to admit
the applicant to the second round of the written tests in
that competition.

Decision: Annulment.

Abstract of the Judgment

The applicant, a skilled worker in Grade D 3 with the Joint Interpreting and
Conference Service of the Commission of the European Communities was informed

by letter of 12 October 1995 of the decision of the Selection Board in Open Competition Conseil/C/360 to admit her to the written tests in that competition organised to constitute a reserve list of French-language secretaries (notice of competition published in OJ 1994 C 345 A, French Edition only, p. 3).

The notice of competition provided for three rounds of tests. The first consisted of three compulsory written tests, namely dictation, drafting of simple texts in French and a language test in the form of a multiple choice questionnaire on a text drafted in a Community language other than French. It was specified that, in order to be admitted to the second round of tests, candidates had to obtain at least 60% of the maximum score in each of the compulsory written tests. The second round comprised two compulsory tests on computer and an optional shorthand test. The third comprised two compulsory oral tests.

The first round of the tests took place on 17 November 1995 in Brussels and Paris simultaneously. In Brussels, 1 147 candidates, including the applicant, took part in the tests. They were seated in the room in blocks, in alphabetical order. At the end of each test, they were asked to hand their handwritten texts to the invigilators of their block, together with the text of the test which had been distributed to them. They were to throw any rough paper into the waste paper bins situated next to the invigilators and to leave any unused paper on their tables.

At the end of the first and second tests, the invigilators of each block check, on the spot whilst the following test is taking place, that the number of tests handed in corresponds to the number of candidates in their block and can identify the candidates who have not handed in one or other of the test. By contrast, they only count and check the third and fourth tests once the candidates have left.

According to the attendance list, the applicant handed in the first two tests, but not the third. Consequently the word 'abandonment' was added next to her name, which was deleted.

By letter of 12 January 1996, signed by Mrs P. of the Recruitment Department of the Council, the applicant was informed of the Selection Board's decision not to admit her to 'the oral tests, since [she had] not taken part in all the compulsory written tests of that competition'.

On 1 and 11 March 1996, the applicant wrote to Mrs P. that she confirmed that she had participated in all the compulsory written tests and asked that the necessary checks to establish that be carried out.

By letter of 13 March 1996 (the contested decision), the chairman of the Selection Board in the competition dismissed the applicant's complaint in the following terms:

'It appears that one of the written tests was not handed in to the organisers of the competition who were present. I must therefore conclude that you did not take part in all the tests stipulated in the notice of competition.

For that reason, the Selection Board is not able to calculate the mark to be awarded to you and, as chairman of the Selection Board, I regret to inform you that you will not be admitted to the practical tests ...'

Substance

The Selection Board's decision not to admit the applicant to the oral tests in the competition, following the loss of the copy of the third written test, is clearly vitiated by a manifest error of assessment, since the administration is unable to demonstrate that the applicant did not hand in her copy and consequently had to be regarded as having abandoned the competition.

Operative part:

The decision of the Selection Board in Competition Conseil/C/360 of 13 March 1996 not to admit Mrs Hankart to the second round of written tests in the competition is annulled.