

ORDER OF THE COURT OF FIRST INSTANCE (Third Chamber)
31 July 2000

Case T-43/00

Javier Martínez Lara and Milva Urbán Penón
v
Council of the European Union

(Officials – Time-limit for lodging a complaint – Action manifestly inadmissible)

Full text in French II - 753

Application for: annulment of, first, the decisions of 27 November 1998 of the selection board for Internal Council Competition B/260 not to include the applicants on the list of suitable candidates and, second, the decision of the Secretary-General of the Council of 28 July 1999 not to reclassify the competition.

Held: Application dismissed as manifestly inadmissible. The parties to bear their own costs.

Summary

Officials – Action – Act adversely affecting an official – Confirmatory act – Exclusion – Request for internal competition to be reclassified (Staff Regulations, Arts 90 and 91)

An act cannot be described as adversely affecting an official if it contains no new factor as compared with a previous measure and has not therefore replaced it. Such an act is not open to challenge.

In that respect, a request for the reclassification of an internal competition for passage from one category to another, submitted by officials who had been successful but who had not been included in the list of suitable candidates on account of the limited number of posts which the competition was intended to fill, can have no other purpose, as far as they are concerned, than to enable their names to be included on the list. Accordingly, the rejection by the appointing authority of such a request merely confirms the decision not to include them in the list and consequently constitutes a confirmatory act.

(see para. 23)

See: T-82/92 *Cortes Jimenez and Others v Commission* [1994] ECR-SC I-A-69 and II-237, para. 14; Case T-40/98 *Pagliariani v Commission* [1998] ECR-SC I-A-515 and II-1555, para. 28