

## Joined Cases T-18/89 and T-24/89

Harissios Tagaras

v

Court of Justice of the European Communities

(Official — Classification — Additional  
seniority in step — Equal treatment — Admissibility)

Judgment of the Court of First Instance (Fourth Chamber), 7 February 1991 ..... 55

### Summary of the Judgment

1. *Officials — Actions — Act adversely affecting an official — Decision on a request for reclassification — Appointment as a probationary official  
(Staff Regulations, Arts 90 and 91)*
2. *Community law — Principles — Legal certainty — Act of the administration having legal effects — Need for clarity and precision — Obligation to notify interested parties*
3. *Officials — Actions — Prior complaint through official channels — Time-limits — Request for reclassification — Implied rejection — Complaint — Action brought before the expiry of the period allowed for a reply to the complaint — Inadmissibility  
(Staff Regulations, Arts 90 and 91)*
4. *Officials — Recruitment — Classification in step — Additional seniority in step — Criteria for granting additional seniority — Discretion of the administration — Training and previous experience — Appraisal on the date of appointment as a probationary official  
(Staff Regulations, Art. 32, second paragraph)*

5. *Officials — Recruitment — Equal treatment*  
(*Staff Regulations, Art. 5 (3)*)

1. In a case where reclassification is requested the decision appointing a person as a probationary official — which must be in writing, must have been taken by the appointing authority, must specify the date on which the appointment takes effect, and must assign the official to a post — is to be seen as the act adversely affecting the official. That is the decision which defines the duties for which the official has been appointed and definitively fixes the corresponding grade.
2. The principle of legal certainty, which forms part of Community law, requires that every measure of the administration having legal effects must be clear and precise and must be drawn to the attention of the person concerned in such a way that he can ascertain exactly the time at which the measure comes into being and starts to produce its legal effects, particularly as regards the period allowed for bringing an action to challenge it.
3. Although an official is entitled to request the appointing authority to reconsider his classification, in order to encourage an amicable settlement of the dispute between himself and the administration by allowing the administration to review its position, that option does not have the effect of allowing him to set aside the time limits laid down in the Staff Regulations for lodging a complaint and for applying to the Court.

An application lodged before the expiry of the period allowed for a reply to the complaint against the implied decision of rejection is premature and hence inadmissible.

4. The appointing authority has a wide discretion, within the limits laid down by the second paragraph of Article 32, to allow additional seniority in step on recruiting an official, in order to take account of the training and previous experience of the person concerned, both as regards the nature and the duration of that experience and its relationship, be it close or otherwise, to the requirements of the post to be filled.

The training and special experience in question should be appraised as at the time of appointment as a probationary official.

5. There is a breach of the principle of equal treatment laid down in Article 5(3) of the Staff Regulations when two categories of person whose factual and legal circumstances disclose no essential difference are treated differently at the time of their recruitment.

The same is true where situations which are different are treated in an identical manner.