

Case T-158/89

Guido van Hecken

v

Economic and Social Committee of the European Communities

(Officials — Annulment of the decision not to admit
the applicant to the tests of Open Competition ESC/LA/102/87 —
Compensation for damage)

Judgment of the Court of First Instance (Fifth Chamber), 28 November
1991 II - 1342

Summary of the Judgment

- 1. Officials — Recruitment — Competition — Competition based on qualifications and tests — Admission requirements — Laid down by the notice of competition — Introduction by the Selection Board of requirements not mentioned in the notice of competition — Not permissible
(Staff Regulations, Art. 30; Annex III, Art. 5)*
- 2. Officials — Action — Action for damages — Annulment of the contested unlawful act — Appropriate reparation for non-material damage
(Staff Regulations, Art. 91)*

1. Although it is for the Selection Board for a competition based on qualifications and tests to assess in each case whether the certificates or work experience of each candidate correspond to the level required by the Staff Regulations and by the notice of competition, it is still bound by the wording of the notice of competition as published. According to the Staff Regulations, the basic function of the notice of competition is precisely to give those interested the most accurate information possible about the conditions

of eligibility for the post to enable them to judge, first, whether they should apply for it and, secondly, what supporting documents are important for the proceedings of the Selection Board and must therefore be enclosed with the application form.

The system laid down in the first subparagraph of Article 5 of Annex III to the Staff Regulations would be deprived

of its substance if, in selecting the candidates to be admitted to the tests, the Selection Board could apply requirements which do not appear in the notice of competition and, therefore, go beyond a comparative examination of the candidates on the basis of the qualifications required. Such a power would be incompatible with the division of powers between, on the one hand, the appointing authority, which has a broad discretion in drawing up the requirements of the competition, and, on the other, the Selection Board, which is bound by these requirements in carrying out its task under Article 30 of the Staff Regulations.

Consequently, in a competition based on qualifications and tests the Selection Board may not exclude a candidate from the tests of the competition on the ground that he does not meet a requirement which was not mentioned in the notice of competition.

2. The annulment of an administrative act challenged by an official constitutes appropriate and, in principle, sufficient reparation for any non-material damage which he may have suffered.

JUDGMENT OF THE COURT OF FIRST INSTANCE (Fifth Chamber)
28 November 1991 *

In Case T-158/89,

Guido van Hecken, an official of the European Parliament, residing in Berchem (Belgium), represented by F. Herbert, of the Brussels Bar, with an address for service in Luxembourg at the Chambers of N. Decker, 16 Avenue Marie-Thérèse,

applicant,

v

Economic and Social Committee of the European Communities, represented initially by D. Brüggemann, Legal Adviser, acting as Agent, assisted by C. Verbraeken, of the Brussels Bar, and subsequently by M. Bermejo Garde, Legal Adviser, acting as Agent, assisted by V. Busschaert, of the Brussels Bar, with an

* Language of the case: Dutch.