

## Case T-44/92

Claudia Delloye and Others

v

Commission of the European Communities

(Officials — Notice of competition — Condition for admission to the oral test —  
Manifest error of reasoning — Duty to have regard to the interests of officials)

Judgment of the Court of First Instance (Fourth Chamber), 3 March 1993 ..... II - 222

### Summary of the Judgment

1. *Officials — Competitions — Competition based on tests — Admission to the oral test dependent on attaining the pass mark in the written tests — Duties of the Selection Board — Compliance with the terms of the notice of competition (Staff Regulations, Annex III)*
  2. *Officials — Competitions — Selection Board — Independence — Limits — Adoption of illegal decisions — Duties of the appointing authority*
  3. *Officials — Competitions — Competition based on tests — Ambiguity in the notice of competition as to the results required in the written tests for admission to the oral test — Procedural irregularity irrelevant to the legality of the decision of the Selection Board drawing up the list of candidates to be admitted to the oral test in accordance with a correct interpretation of the notice of competition*
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1. While the appointing authority has a wide discretion in determining the conditions for a competition, the Selection Board, for its part, is bound by the wording of the notice of competition as published. It has no power to depart from a strict

interpretation of that notice and admit to the oral test candidates who have not attained in the written tests the pass mark required by the notice of competition, since to do so would be to alter substantively the conditions of the competition.

2. In view of the independence of Selection Boards in competitions, the administration has no authority to amend or annul their decisions. If it considers that a Selection Board has illegally prevented certain candidates from sitting a test, its role is to take formal note of that situation by means of a reasoned decision and recommend the whole procedure by publishing a new notice of competition. Under no circumstances has it the power to respond

to a complaint by admitting the complainant to that test.

3. Ambiguity in a notice of competition concerning the marks required in the written tests for admission to the oral test cannot invalidate the decision of the Selection Board concerning such admission, reached on the basis of a correct interpretation of that notice, where there is no evidence to suggest that, in the absence of such ambiguity, the candidates would have performed better in the written tests. A procedural irregularity cannot invalidate an act unless it is established that, without it, the result of the decision might have been different.

JUDGMENT OF THE COURT OF FIRST INSTANCE (Fourth Chamber)  
3 March 1993 \*

In Case T-44/92,

**Claudia Delloye, Stavros Karafillakis, Antonio Loddo, Carla Rinaldin and Mariangela Tavola**, respectively a member of the temporary staff and officials of the Commission of the European Communities, residing in Belgium, represented by G. Vandersanden of the Brussels Bar, with an address for service in Luxembourg at the Chambers of A. Schmitt, 62 Avenue Guillaume,

applicants,

v

\* Language of the case: French.