

Case T-26/91

Leonella Kupka-Floridi

v

Economic and Social Committee

(Officials — Recruitment — Probationary period — Decision not to establish at the end of the probationary period — Duty to have regard for the interests of officials — Manifest error of assessment — Consultation of the Reports Committee)

Judgment of the Court of First Instance (Third Chamber), 1 April 1992 II - 1617

Summary of the Judgment

1. *Officials — Recruitment — Probationary period — Decision not to establish the probationer — Communication to the probationer of the opinion of the Reports Committee — Observance of the rights of the defence*
(Staff Regulations, Art. 34(2))
2. *Officials — Recruitment — Probationary period — Purpose — Conditions of service*
(Staff Regulations, Art. 34)
3. *Officials — Recruitment — Probationary period — Assessment of outcome — Appreciation of the probationer's suitability — Review by the Court — Limits*
(Staff Regulations, Art. 34)

1. Where it is decided not to establish a probationer, forwarding the opinion of the Reports Committee to the probationer constitutes a sufficient safeguard of the rights of the defence. The question whether the proceedings of the committee were properly conducted may be assessed by the probationer and by the Court on the basis of that opinion alone, without its being necessary for the minutes of the meetings of that committee to be made available.
2. In contrast to competitions giving access to the Community civil service, designed to permit the selection of candidates on the basis of general criteria directed to the candidate's future suitability, the purpose of the probationary period provided for in Article 34 of the Staff Regulations is to enable the administration to make a more concrete assessment of a candidate's suitability for a particular post, the manner in which he performs his duties and his efficiency in the service.

Although the probationary period cannot be considered to be equivalent to a training period; the fact remains that the probationer must be put in a position during that period to demonstrate his abilities. That condition cannot be separated from the concept of probationary period and in addition satisfies the requirements relating to

respect for the general principles of proper administration and equal treatment and the duty to have regard for the interests of officials. Accordingly, the probationer must be given not only adequate physical conditions but also appropriate instructions and advice in the light of the duties performed to enable him to adapt to the specific needs of the post he fills.

However, the duty to have regard for the interests of officials cannot require the administration to allocate to the probationer tasks which take greater account of his special qualifications than of the requirements of the department to which he is assigned.

3. By virtue of the principles laid down by the Staff Regulations governing recruitment and probation, the administration has a wide discretion to assess the abilities and performance of a probationer in the light of the interests of the service. Accordingly it is not for the Court to substitute its own judgment for that of the institutions in so far as concerns their assessment of the outcome of a probationary period and their appreciation of the suitability of a probationer for a permanent appointment in the Community civil service, unless there has been a manifest error of assessment or an abuse of power.