JUDGMENT OF THE COURT (First Chamber)
21 January 1987 *

In Case 204/85

Vassiliki Stroghili, residing at 244 rue de Luxembourg, Bertrange (Grand Duchy of Luxembourg), assisted and respresented by Jean-Noël Louis, of the Brussels Bar, with an address for service in Luxembourg at the Chambers of Nicolas Decker, 16 avenue Marie-Thérèse,

applicant,

v

Court of Auditors of the European Communities, represented by its Secretary, Jean-Aimé Stoll and Michael Becker, acting as Agents, assisted by Luciette Defalque, of the Brussels Bar, with an address for service in Luxembourg at its seat, 29 rue Aldringen,

defendant,

supported by

Androniki Vlachou, represented by Victor Biel, of the Luxembourg Bar, with an address for service at his Chambers at 18 A rue des Glacis,

intervener,

APPLICATION for annulment of the decision adopted on 26 November 1984 by the Secretary of the Court of Auditors, who is responsible for staff management, establishing Mrs Androniki Vlachou, a probationary official in Grade LA 6 assigned to the President's Section, in her post,

* Language of the Case: French.

THE COURT (First Chamber)

composed of: F. Schockweiler, President of the Chamber, G. Bosco and R. Joliet, judges,

Advocate General: C. O. Lenz
Registrar: J. A. Pompe, Deputy Registrar

having regard to the Report for the Hearing and further to the hearing on 8 October 1986,

after hearing the Opinion of the Advocate General delivered at the sitting on 23 October 1986,

gives the following

Judgment

1 By application lodged at the Court Registry on 3 July 1985, Vassiliki Stroghili, at the time an official in Grade LA 7 of the Court of Auditors of the European Communities, brought an action for annulment of the decision adopted on 26 November 1984 by the Secretary of the Court of Auditors establishing Mrs Androniki Vlachou, a probationary official in Grade LA 6 assigned to the President's Section, in her post.

2 Reference is made to the Report for the Hearing for the facts of the case, the course of the procedure and the submissions and arguments of the parties, which are mentioned or discussed hereinafter only in so far as is necessary for the reasoning of the Court.

3 Mrs Stroghili claims that the decision to establish Mrs Vlachou infringed Articles 27 and 34 of the Staff Regulations, inasmuch as it was adopted even though Mrs Vlachou had failed to demonstrate sufficient ability to be established, and involved a misuse of powers, inasmuch as it was contrary to the interests of the service.

4 The Court of Auditors, defendant, supported in its contentions by Mrs Vlachou, intervener, first of all objects that the action is inadmissible on the grounds *inter alia* that Mrs Stroghili does not put forward any claim which relates to her personally and cannot justify her action by a sufficiently clear, vested and present interest in bringing proceedings.

5 Mrs Stroghili replies that her interest in bringing an action against the decision to establish Mrs Vlachou arises:

(a) from her interest, as an official, in ensuring that the institutions have the services of competent officials who give evidence of good conduct;

(b) her interest in ensuring that the proper functioning of the Greek Translation Section and the working atmosphere therein should not be disturbed by the presence of a person who does not have the qualities and necessary ability to perform the duties entrusted to her;

(c) her interest in not having her chances of promotion to LA 6 (which should be assessed at the date when she brought her action) reduced and her interest in not being subject to any 'unlawful competition' from Mrs Vlachou in any competition for posts in the career bracket LA 5/4.

6 With regard to the objection of inadmissibility raised by the Court of Auditors it is necessary to determine whether or not the action satisfies the conditions of admissibility laid down in the Staff Regulations. In that respect it must be borne in mind that, according to Article 91 (1) of the Staff Regulations, only actions directed against 'an act adversely affecting' the applicant are admissible and, according to the established case-law of the Court (judgment of 1 July 1964 in Case 26/63 *Pistoj* v *Commission* [1964] ECR 341; and judgment of 1 February 1979 in Case 17/78 *Deshormes* v *Commission* [1979] ECR 189), only acts which directly and immediately affect the applicant's legal situation can be regarded as adversely affecting him.

7 None of the circumstances cited by Mrs Stroghili shows that the establishment of Mrs Vlachou is an act adversely affecting her.

8 The interests referred to in (a) and (b) do not concern officials and other staff as individuals but concern specifically the administration, which is responsible for ensuring the organization and proper functioning of its departments.

9 According to the case-law of the Court (judgment of 30 June 1983 in Case 85/82 *Schloh* v *Council* [1983] ECR 2105) such interests, which do not disclose any harm to the legal position of the persons who seek to rely on them, cannot constitute the basis for the admissibility of an action, since an official or member of staff 'is not entitled to act in the interests of the law or of the institutions and may put forward, in support of an action for the annulment of an appointment, only such claims as relate to him personally'.

10 With regard to the interest referred to in (c), the appointment of Mrs Vlachou could not constitute an act adversely affecting Mrs Stroghili since she did not take part in the competition which culminated in Mrs Vlachou's appointment as a probationary official and was not eligible for promotion to Grade LA 6 when Mrs Vlachou was established in that grade.

11 Mrs Stroghili's interest in not having her prospects of promotion to Grade LA 6 reduced as a result of Mrs Vlachou's establishment and not being subject to 'unlawful' competition from her in any competitions which might in future be organized for posts in career bracket LA 5/LA 4 at the Court of Auditors is a future and hypothetical interest and hence does not satisfy the requirements expressly laid down in the case-law of the Court.

12 In view of the foregoing considerations the action must be dismissed as inadmissible for lack of an act adversely affecting the applicant.

Costs

13 Article 70 of the Rules of Procedure provides that, without prejudice to the second subparagraph of Article 69 (3), in proceedings brought by officials institutions

must bear their own costs. Pursuant to the second paragraph of Article 69 (3) the Court may order a party to pay costs which the Court considers that party to have unreasonably or vexatiously caused the opposite party to incur.

14 The defendant has expressly asked that the applicant be ordered to pay the costs on the ground that she brought her action although the defendant had pointed out several times to her, both orally and in writing, that the factual and legal position was such that her action was manifestly inadmissible.

15 In view of the fact that Mrs Stroghili brought her action although she could easily have foreseen that, under the Staff Regulations and the established case-law of the Court, her action would be declared inadmissible, she must be ordered to pay the costs of the defendant.

16 Since the applicant has been unsuccessful she must also be ordered to pay the costs of the intervener.

On those grounds,

THE COURT (First Chamber)

hereby:

(1) Dismisses the action as inadmissible;

(2) Orders the applicant to pay the costs of the defendant and intervener.

Schockweiler Bosco Joliet

Delivered in open court in Luxembourg on 21 January 1987.

P. Heim
Registrar

F. Schockweiler
President of the First Chamber