

Having regard to the Rules of Procedure of the Court of Justice of the European Communities;

THE COURT

hereby:

- 1. Annuls the decision of the Secretariat of the European Parliament of 1 February 1963 headed 'Notice of Vacancy No 44 at the Directorate-General of the Parliamentary Documentation and Information Division';**
- 2. Dismisses the applicant's request for the award of damages;**
- 3. Orders the European Parliament to pay the costs.**

Donner	Hammes	Trabucchi	
Delvaux	Rossi	Lecourt	Strauß

Delivered in open court in Luxembourg on 4 March 1964.

A. Van Houtte
Registrar

A. M. Donner
President

OPINION OF MR ADVOCATE-GENERAL LAGRANGE
DELIVERED ON 16 DECEMBER 1963¹

*Mr President,
Members of the Court,*

The reference to the full Court made by the First Chamber and the suspension of the implementation of the contested decision and of the consequences following from it, made with the agreement of the defendant, show the importance of the application before you, an importance which had been already shown by the attempted intervention of the Staff Committee which you were unable to allow on purely legal grounds.

This difficult and serious problem is in fact that which all international organizations necessarily meet in the preparation and application of the rules governing relations with their staff and which lies in the contradiction between two quite laudable objects: first, to ensure a fair balance within the international body between the nationals of the various countries which are members of that body or which have established it, so that its administration should not seem to be the prerogative of one or some of those countries, to ensure that

¹ — Translated from the French.

the various national characteristics should not conflict but should complement each other and, finally, to work together within the administration for the common good of the work for which it is established; secondly, to give the staff of the organization in question guarantees of security and independence and career prospects based on seniority and merit, comparable to guarantees enjoyed by officials in national organizations in order to protect them, as far as possible in the interests of the service, both against arbitrary action by their new employer and against possible pressures or influences by the national authorities of their countries of origin. I have said 'contradiction': this contradiction is obvious and can be resolved only by *compromise* solutions laid down in *Staff Regulations* which are carefully worked out and honestly applied. This was the object of the three similar texts worked out for the staff of the three Communities, which are known as the Staff Regulations. You are clearly not required in this case to pass a value-judgment on the Staff Regulations but, by interpreting the provisions, to say how its authors intended to achieve this object and to effect the compromise.

I — Facts and Admissibility

Mr Lassalle is a principal administrator in the European Parliament, an established official in grade A4 and assigned in that capacity to the publications department of the 'Publications and Library' Division which is part of the Parliamentary Documentation Directorate. He requests the annulment of 'Notice of Vacancy No 44 in the Directorate-General of the Parliamentary Documentation and Information Division' (which controls the Directorate of Parliamentary Documentation); this notice concerns the post of 'Head of Division (career bracket A3) in parliamentary documentation'. This is in fact the Publications and Library Division in

which the applicant is working, the other Division of the Directorate, that of Documentary Research, at present having a Head of Division. As you know, the applicant is objecting to this notice of vacancy on the grounds that among the 'qualifications and attainments required' it includes the following requirement: 'a perfect knowledge of Italian'. The applicant also claims compensation for damage suffered as a result of this notice.

Although the admissibility of the application is not challenged by the defendant (it is in fact expressly admitted) the point should first be verified as it is unusual to regard a 'notice of vacancy', which is normally only a publicity measure intended to attract candidates, as a 'decision adversely affecting an official'.

However, this does not apply in the Staff Regulations. The second paragraph of Article 4 provides as follows: 'Vacant posts in an institution shall be notified to the staff of that institution once the appointing authority decides that the vacancy is to be filled'. Thus a decision exists.

Moreover, the notice of vacancy in this instance contains various conditions which limit the choice which the administration will have eventually to make. In short, it is limiting its choice in advance and, in so doing, is taking a decision which, when published, has an immediate adverse effect on servants who, like the applicant, do not fulfil one or other of the required conditions, at least in so far as they maintain that this condition is illegal. In my opinion, therefore, this application is admissible. Another question concerning admissibility should be briefly examined. The defendant claims that Article 91 of the Staff Regulations does not allow the plea of *misuse of powers* to be raised in an application for annulment based on that Article. The defendant refers to the words of the provision in question: 'any dispute between the Communities and

any person to whom these Staff Regulations apply regarding the *legality* of an act adversely affecting such person' shall be referred to the Court of Justice of the European Communities. It is claimed that the 'legality' should be understood as allowing only appeals based on the illegality of an act, to the exclusion of all other grounds for annulment, in particular that of misuse of powers so that, the submissions of the applicant can only be examined to the extent that they are based on an infringement of the Staff Regulations. This argument cannot be maintained. The word 'legality' is used here in its normal meaning, sanctioned by modern legal doctrine, of compliance with the law of which the 'statute', used in the most general sense, is the expression. It is legality, thus understood, which is the basis of the application for annulment and distinguishes it from other legal proceedings, such as actions in which the court has unlimited jurisdiction. This contrast is found in Article 91 itself. Furthermore, as you know, the first paragraph of Article 173 of the EEC Treaty clearly confirms this point of view, stating that 'The Court of Justice shall review *the legality* of acts of the Council and the Commission . . . It shall *for this purpose* have jurisdiction in actions brought . . . on grounds of lack of competence . . . or misuse of powers'. Misuse of powers may thus be raised in support of an action concerning the legality of an act, and it is difficult to imagine that the authors of the Staff Regulations wished to restrict the usual scope of the application for annulment in an area in which it must be capable of fulfilling its normal rôle.

II — The substance of the case

I think, therefore, that in this case, by reason of the position taken before the Court by the defendant, the defects which the application imputes to the contested decision concern an infringe-

ment of the provisions of the Staff Regulations rather than misuse of powers.

In fact, in his defence, with a frankness which must be respected, and which is rarely found in a public administration, the representative of the European Parliament, whilst affirming that the aim pursued was perfectly legal, admits that the real object of the contested decision was to impose a condition of nationality in the guise of a condition as to the knowledge of a language.

In these circumstances, the first question is whether a 'notice of vacancy' may include a condition as to the nationality of candidates invited to apply for the post — which is primarily a question of objective legality. Then, if an affirmative reply be given to that question, a second is raised: is it possible to translate the condition as to nationality into 'linguistic' terms? Less important, perhaps, and without great practical application in this instance, the second question is nonetheless capable of raising very delicate problems in other cases in view of the distribution of languages or the attention given to them in certain countries of the Community; it is useless to insist: we all know that language and nationality are two quite different things. However, in my opinion even on this second point there is still a question of objective legality to be resolved, which should be raised in the following manner: could not such a procedure, which is clearly 'misused', nevertheless be 'legally' employed under the provisions of the first paragraph of Article 27 of the Staff Regulations, which only prescribes recruitment 'on the broadest *possible* geographical basis'? In other words, does the linguistic condition, which is necessarily an imperfect method of ensuring the nationality desired, not thus accord with Article 27 which is itself only a guide? In my opinion, this second question yet again concerns objective legality rather than misuse of powers.

Let us then examine the first question. I should first like to set aside an objection raised by the defence that a clear distinction should be drawn between Article 27, which is concerned with the terms on which recruitment is made — the only question raised in the action — and Article 45, which particularly concerns promotion, a problem which does not fall within the ambit of this application. The notice of vacancy applied Article 27 exclusively during the first stage in which it was only necessary to determine the conditions of access to the post which had been brought to the attention of the staff. Only later would the promotion procedure in Article 45 be set in motion by the examination of the qualifications of those candidates fulfilling the conditions laid down, so that the applicant cannot use Article 45 to dispute a decision taken on the basis of Article 27.

This argument, which the defendant also stressed during the oral procedure, does not appear to me to be correct, or, at least, it anticipates the solution of the problem.

The question is precisely whether, in this case, we are dealing with a recruiting operation under Article 27. The notice of vacancy is provided for in Article 4, among the general provisions, and not in Chapter I of Title III relating to recruitment. When a vacancy occurs and the competent authority decides to fill it, it is not then known exactly how it will be filled: by promotion, transfer or internal or external competition. Are not all these merely methods of 'recruitment' within the meaning of Article 27? This is precisely what is contested and what I shall have to examine.

Let us note, for the moment, that although the two processes in question — notice of vacancy and promotion — are distinct and successive in time, they are nonetheless legally linked inasmuch as, by fixing certain conditions of access to the post, they thereby reduce the number of officials 'eligible for promotion',

among whom the promotion system under Article 45 operates. This cannot be excluded from the dispute. Moreover, with a view to filling the post, there are references at the beginning and the end of the contested decision to the promotion procedure: the conditions set out at the end amount to the exact application of Article 45.

Having dealt with this question, I come to the central theme of the dispute which concerns the interpretation of the first paragraph of Article 27, which reads: 'Recruitment shall be directed to securing for the institution the services of officials of the highest standard of ability, efficiency and integrity, recruited on the broadest possible geographical basis from among nationals of Member States of the Communities'. So one first point is clear and does not seem to be disputed: the consideration of the 'broadest possible geographical basis' only applies to recruitment. The whole question lies in what is meant by recruitment.

Is it necessary, as the defendant maintains, to extend this concept, at least for the application of Article 27, to all cases in which there is a vacant post to be filled, the administration being entitled, when such a vacancy arises, to maintain and, if necessary, re-establish a satisfactory balance between the nationalities? Or is it necessary to limit the concept of recruitment to the appointment as an official of a person who does not yet have that status? Or — in between — should one include among 'recruits' all those who reach a category or service to which they did not already belong? Or, finally, is it necessary to make a distinction according to whether the post to be filled is a 'new' post or one already existing? These seem to be the different criteria between which a choice should be made in defining the concept of 'recruitment' within the meaning of Article 27 of the Staff Regulations.

Without wishing to widen the discussion out of all proportion, I might recall the

two opposing theories on how to ensure the functioning of the administration, one which has its origin in the USA where it has been greatly developed, the other which, in spite of certain influences by the former, remains the basis of the various European systems. According to the first theory, the departments of the administration include all the 'posts' necessary for its functioning; each post corresponds to the accomplishment of a particular task: it is the 'job' and the ideal is that each job should be given to the most suitable man (the right man in the right place). 'Recruitment' is then the operation by which the person judged suitable is given that post by a contract drawn up to determine the respective rights and obligations of the parties.

The second theory rests on the idea that the public service follows rules of its own related to the particular nature of the tasks and responsibilities incumbent upon this employer who is different from the others — that is to say, the State: continuity of the public service, predominance of the general interest, etc. It is therefore necessary to create a corps of 'officials' intended in principle to remain attached to the public service, who are called 'civil servants of the State' and who should possess not only the professional skills which their duties require but the general qualities inherent in the character of their task, such as devotion to the public weal and feeling for the general interest, from which arises the necessity, in the very interests of the State, to endow them in return for their special obligations with 'Staff Regulations' which not only protect them from arbitrary action but allow them to pursue a 'career' in which the best combination of selection and seniority will reward the better ones without disadvantage to the others, within certain limits.

According to this view, recruitment is merely the operation by which the servant enters the public service as an

official by means of appointment, that is by a unilateral act which makes him subject to the regulations, present and future, governing the public service. Only the first post, normally at the bottom of the hierarchy, is filled by recruitment; the others will be filled by *preferment* as a career progresses.

However, to take into account the different qualities involved in the various grades of the hierarchy it is customary to divide it into a certain number of categories each of which corresponds to a particular level of knowledge and professional experience. In principle, therefore, entry into the public service occurs at the lowest level of each of these categories, within which a servant's career progresses; however, certain facilities are often given to those who are already officials and who wish to pass into the category above that to which they belong.

This is, I believe, the system which corresponds to the second theory, subject of course to the innumerable exceptions and variations which always accompany it.

A glance at the Staff Regulations will show that the second theory is the one employed therein.

In Title I, headed 'General Provisions', we see the essential principles already laid down. Article 1 declares that 'For the purposes of these Staff Regulations, 'official of the Communities' means any person who has been appointed, as provided in these Staff Regulations, to an established post on the staff of one of the institutions of the Communities': this is appointment, the unilateral act which confers on him the status of an official and marks both his entry into the service in order to take up a post and his observance of the Staff Regulations.

Article 4 refers for the first time to the concept of promotion beside that of appointment and distinguishes them: both procedures may be employed in order to 'fill a vacant post' (and may not

indeed have any other purpose), but an order of preference is laid down the arrangement of which is set out in Title III; although not setting out the details of this arrangement, Article 4 nonetheless clearly states the principle upon which it rests: to look to the 'ship's company', if you will forgive the expression, that is, to the officials already in the service, before looking elsewhere. Then comes Article 5 (1) which, according to the orthodox view of the second theory which I recalled a moment ago, divides the posts covered by the Staff Regulations into four categories A, B, C and D, 'according to the nature and importance of the duties to which they relate'. Here, however, appears a scheme to which I shall return, the 'division' of the various grades of each category into 'career brackets' ordinarily containing two grades each, the term 'career brackets' having clearly in this provision a special meaning, narrower than that which it is normally given. Let us note finally Article 5 (3) by which '*Identical conditions of recruitment and service career* shall apply to all officials belonging to the same category or the same service' (the service — that is the language service — obeying the same rules as the category). Although interpretation of this provision may lead to discussion, it appears to treat as normal a 'career' (in the general and traditional meaning this time) being 'advanced' within the category as a whole and, consequently, 'recruitment', which is at issue here, implies *entry into the category* and not preferment within it.

I shall now pass to Title III to see whether or not the detailed provisions confirm the guide lines given in Title I. Title III is headed: 'Career of Officials', and here again, without any doubt, the term 'career' has its normal meaning. In the classic manner four Chapters deal with the problems relating to the taking up of duties (Chapter 1: Recruitment), to the legal position of an official once recruited (Chapter 2: Ad-

ministrative Status), the advancement of his career (Chapter 3: Reports, Advancement to a Higher Step and Promotion), and finally leaving office (Chapter 4: Termination of Service). Clearly it is Chapters 1 and 3 to which I must refer.

From a comparative reading of these two Chapters it appears quite clear that 'promotion', the detailed rules for which are set out in Article 45 and which concern access to a higher grade in a category, is not 'recruitment' within the meaning of Chapter 1, in particular Article 27.

In its basic provisions Chapter 1 only applies to *external recruitment*, that is, to the conditions of entry into the service of those persons who are not yet officials. That is the subject of Articles 27 and 28. Article 27 states: 'Recruitment shall be directed to securing for the institution *the services of officials* of the highest standard of ability, efficiency and integrity...'; these are general conditions which are required of all persons wishing to enter the service of the Communities as officials. The second paragraph confirms this: '*Officials shall be selected* without reference to race, creed or sex'. Such is 'recruitment' within the meaning of Article 27 and the same applies to Article 28. Once entry into the service has been confirmed by the act of appointment, the servant is and remains an 'official' unless properly deprived of this status by the regular procedure (revocation, dismissal, etc.); he is, once and for all, 'recruited'.

The remainder of the Chapter confirms this interpretation. In particular, Article 29 (2), which allows the use of '*procedure other than the competition procedure*' for the 'recruitment' of Grade A1 or A2 officials and, in exceptional cases, also for recruitment to posts which require special qualifications, appears from all the evidence to apply to the recruitment of candidates who are not yet officials. The same applies to Article 38 which prescribes a medical examination for

the candidate and which is merely an application of Article 28. The same applies finally to Article 34 concerning the probationary period, which could not possibly apply to a candidate who is already an official, since incompetence during the probationary period may lead to dismissal; if a probationary period were imposed on such a candidate and he did not complete it successfully, he would have to be allowed to return to his previous position but would not be dismissed.

It may be observed that certain provisions of Chapter 1 are outside the context of recruitment and govern in a more general way the problem of vacant posts. This applies particularly to Article 29 which details the order of preference first set out in Article 4, that is, the order in which the different procedures laid down to fill vacancies should be employed: (a) promotion and transfer within the institution; (b) competitions internal to the institution; (c) transfer of officials of other institutions of the Communities; (d) finally, if none of these methods has produced any result, initiation of the 'external' or 'general' competition procedure, according to the terminology used in our institutions; at that moment (and the manner in which it is drafted shows it clearly) we return to the main theme of the Chapter to find the rules relating to recruitment. In the same way, Article 30 concerning competition procedure clearly applies both to internal as well as to external competitions, although it is intended mainly for external competitions the aim of which is recruitment. However, it should be observed that, in all these provisions, the term 'recruitment' is not used: such expressions are employed as 'Before filling a vacant post' (Article 29), or 'Candidates thus selected shall be appointed as follows' (Article 31). Finally, I have only found one passage in which the word 'recruited' is used outside the context of external recruitment: that is Article 32

by which 'An official shall be recruited at the first step in his grade', subject to certain possible exceptions. No doubt this rule applies to all candidates entering a career bracket even if they are already officials in other capacities. Does it follow that the concept of recruitment, as I have described it, should be widened, in particular to cover the application of Article 27 at present in question? It is very doubtful, given the very different subject matter of these two provisions, but the question can doubtless be reserved. In fact, the concept of recruitment could in any case only be extended to apply at the most, apart from entry into service of those who are not already officials, to *access to a new service or to a new category*, which can normally only take place after competition, but not to access by way of promotion to a higher grade of the same category or service. I consider that this interpretation is confirmed decisively by an examination of Article 45 relating to promotion, with which I shall now deal.

This provision appears not in Chapter 1, which concerns recruitment, but in Chapter 3, headed 'Reports, Advancement to a Higher Step and Promotion'. This Chapter consists of rules concerning 'advancement of the career' which began with recruitment. It deals first with reports (Article 43) — in fact a periodic report on 'the ability, efficiency and conduct in the service of each official'. It is not by chance that this provision is included in a Chapter devoted to advancement, for it is here, at least to the extent that advancement takes place by selection, that the assessment of aptitude and merits is particularly necessary. Then comes Article 44 on advancement to the next step which is automatic and then Article 45 on advancement to the next grade, which is described, perfectly correctly, by the term 'promotion'. Allow me to recall the terms of this Article:

1. 'Promotion shall be by decision of the appointing authority. It shall be

effected by appointment of the official to the next higher grade in the category or service to which he belongs. Promotion shall be exclusively by selection from among officials who have completed a minimum period in their grade, after consideration of the comparative merits of the officials eligible for promotion and of the reports on them.

For officials appointed to the starting grade in their service or category, this period shall be six months from the date of their establishment; for other officials it shall be two years.

2. An official may be transferred from one service to another or promoted from one category to another only on the basis of a competition.'

I should like to make three points on this Article: first, the distinction which is made between advancement to the next grade *within* the category or service, which alone may be made by promotion and what the Staff Regulations refer to as the 'transfer' from one category to another, which requires a competition. Secondly, that promotion may always be made without a competition. Finally, the absence of any distinction, for advancement of grade within the category or service, between those grades which are 'divided into career brackets' within the meaning of Article 5 and those which are not: in other words, the rule is the same whether it is for the official simply to apply for the higher grade of the career bracket where it has been divided into two grades or whether it is a matter of 'leaving' that career bracket in order to rise higher within the category. Nowhere does there appear more clearly the double meaning given to 'career bracket' in the Staff Regulations. Here, clearly, the career bracket comprises all the grades of the category, which does not mean of course that officials who have begun at the bottom of the ladder will all arrive, or do normally arrive, at the highest grade of their category, especially where

it concerns category A, but that every official established in a grade is 'eligible' to apply for a post in a higher grade of the category to which he belongs, whether or not this higher grade is included in the career bracket within the narrow meaning of Article 5.

But then, it will be said, why does this narrow concept exist beside the normal one? As you know, this concept was introduced in the draft Staff Regulations at the insistence of the staff representatives and was strongly supported by the European Parliament: it represents the dispute between the supporters of that system known, improperly, as 'administrative status' and that known, even more improperly, as 'career brackets'. In fact the only characteristic of the grades 'divided' into a career bracket lies in the fact that these grades (two at the most) are considered to require the same qualifications for the performance of the functions involved. This is shown by a series of brackets in Annex I; for example: principal administrator (grades A4 and A5), administrator (grades A6 and A7). Therefore, unless he has shown that he does not merit it, an official of a lower grade should normally reach the higher grade in the career bracket, even though promotion is by selection, while transfer to a grade which is outside the career bracket may require certain qualifications which an official, although he be deserving, does not necessarily possess. That, I accept, is a considerable guarantee in favour of the officials; however, the institution must propose, and the budgetary authority grant, in the higher grade of the career bracket in the narrow sense of the term, a sufficient number of posts to allow this advancement of grade to take place under satisfactory conditions.

However, the introduction of this system, intended to provide officials with an additional guarantee, must not adversely affect the application of Article 45 which, because of the priority given

to promotion by Articles 4 and 29, makes this procedure the normal method of access into a higher grade in the category to which the official belongs, whether or not the grade concerned is enclosed in the 'career bracket' within the meaning of Article 5.

For these reasons, based both on the relevant provisions (and I apologize for having quoted so many) and on the general concept which arises from their comparison, I consider it impossible that transfer from one grade to that immediately above it by way of promotion should be considered as 'recruitment' within the meaning of Article 27.

It is true that a distinction might be made according to whether the post to be filled is a 'new' one or one already in existence. You will recall that at the hearing learned counsel for the defendant emphasized this point, seeking to show that the post declared vacant had just been created. He stated definitely that, were it otherwise, that is, even if the post concerned were already in existence, the solution would be no different, since the European Parliament intended to reserve the right to re-establish the balance of nationalities when each vacancy arose.

In any case, I do not see what basis exists for such a distinction. First, agreement would have to be reached on what constitutes a 'new post'. Does it involve an increase in the number of posts drawn up by categories and grades in each career bracket, that is, posts indicated in the budget, under Article 6, or is the meaning closer to that possessed by the term 'post' in other provisions of the Staff Regulations? I do not know.

On the other hand, in my opinion, it would in any case be arbitrary and quite contrary to the letter and spirit of the Staff Regulations to enter into such a discussion. Article 29, does not, any more than Article 45 or any other provision, make the slightest allusion to such a distinction; as soon as a post is vacant and the administration has de-

cided that it should be filled, the normal procedure, which gives preference to promotion, must begin.

This is entirely normal: if additional posts are created in any grade, they go first to officials of the lower grade who, by fulfilling the conditions required and possessing the requisite qualifications, are eligible for promotion; if there are no such officials, or not enough of them, then other methods are employed, such as internal competition. The creation of new posts necessarily leads to a 'movement upwards' which is always welcome and which relieves the congestion below, thus enlarging the field of recruitment: it is here that Article 27 is applicable. Moreover, we must also consider the possibility that the number of posts may be reduced: it is not impossible that the European Communities may one day experience those see-saw movements familiar to national administrations.

I shall therefore return to that reasonable idea emphasized by learned counsel for the applicant during the oral procedure, which is that a balance of nationalities should be sought in the appeal for external candidates who are not yet officials of the Community. This is the usual concept of recruitment, especially in the context of Articles 27 and 28. However, it might be possible for Article 27 to apply also to internal competitions whose aim is to allow a change of category, if it is remembered that officials of one category are not necessarily eligible for transfer to a higher category; yet again, however, it is not necessary in this action to come to a decision on this point. It is enough to state that the notice of vacancy in dispute could not legally include the condition at issue so long as its only purpose was to begin the promotion procedure and not to act by way of recruitment.

The question still remains how, *when Article 27 is to be applied* (which is not the case here, as I think I have shown), this should be done in order to obtain the

required result. May a condition of nationality be expressly imposed as a condition of the competition? Freedom of action would wish it, but propriety, which is often a legitimate form of that minimum of hypocrisy which social relations require, would probably disagree. Moreover, it is impossible to impose a specific language condition which would be foreign to the nature of the post to be filled.

However, it would, in my opinion, be legitimate to impose such a condition (in addition to the general condition in Article 28 (f)) when the needs of the service, if not those of the post itself, appear to require it, for example, where within a department one of the languages of the Community is not represented by any servant.

Finally, a certain latitude exists in the fact that selection boards are required wherever possible to draw up a list of suitable candidates containing at least twice as many names as the number of posts to be filled (Article 5 of Annex III). Of course, in drawing up this list the selection board should be completely impartial, but no doubt it will be admitted that the appointing authority which must make its selection from this list may use its discretionary power by taking into account the provisions of Article 27, at least where the qualifications of the candidates are roughly equal. All these problems are well known to the institutions and are usually resolved in this manner.

I have made these remarks only to try to show the actual scope of Article 27. Understood in this way, perhaps this scope will still appear too wide to those who are imbued with the Community spirit and would like to see a European administration in the exact image of a

national administration. Perhaps, on the other hand, it will seem insufficient to those who are less optimistic. I think that it is reasonable, that it accords with the text of Article 27 which, let us not forget, only refers to 'the broadest possible geographical basis', which can never be allowed to conflict with a mandatory provision of the Staff Regulations, and also in the end is likely to bring about a reasonable reconciliation between the two conflicting requirements which I discussed at the beginning of my opinion. Let me add that, contrary to what the applicant appears to regard as a widespread opinion among those responsible for the administration of the European Parliament (although the administration refutes it), I believe that an administration should not be given a political aspect and that this applies particularly when the body which it serves is itself political.

I sincerely hope that, if you adopt my point of view, the European Parliament will also adopt it without regret. After working so hard in order that the Staff Regulations be drawn up and after itself contributing so much to them, it is impossible to imagine that it could be content in its own administration to have a monument which only preserved the façade and nothing more of the Staff Regulations than the name.

As for the claim for compensation, this cannot be allowed. If the administration enforces your judgment, the applicant will have been successful, whatever the consequences of that enforcement. Moreover, as you know, operation of the measure has been suspended and as yet the applicant can have suffered no loss, since no steps have been taken to carry out the contested decision.

I am therefore of the opinion that:

— the notice of vacancy in dispute should be annulled in so far as it requires a perfect knowledge of Italian;

- the claim for compensation should be dismissed ;
- the defendant should be ordered to pay the costs.

ORDER OF THE COURT
14 NOVEMBER 1963¹

In Case 15/63

CLAUDE LASSALLE, an official of the European Parliament,

applicant,

v

EUROPEAN PARLIAMENT,

defendant,

Application to intervene made by the Staff Committee of the European Parliament, represented by the members of the Committee elected on 27 and 28 February 1963 and 5 March 1963, assisted by Ernest Arendt of the Luxembourg Bar, with an address for service in Luxembourg at the Chambers of Mr Arendt, 6 rue W-Goergen ;

Issues of fact and of law

Whereas on 28 February 1963 Claude Lassalle, an official of the European Parliament, applied to the Court of Justice for the annulment of Notice of Vacancy No 44 of 1 February 1963 at the Directorate-General of the Parliamentary Documentation and Information Division ;

Whereas on 21 June 1963 the Staff Committee of the European Parliament applied to intervene in this action in support of the conclusions of the applicant in the original case ;

Whereas the intervener maintains that it has the capacity to bring proceedings in order to protect the interests of the staff which it represents ;

Whereas in this case the Staff Committee

has a legitimate interest in the result of the original case in view of the effect which the decisions will have on the careers of those officials whom it represents ;

Whereas the applicant in the original case supports the argument of the intervener ;

Whereas the defendant in the original case contends that the application is inadmissible on the ground in particular that, in order to be allowed to intervene, the applicant should have the capacity to be a party in an original action whilst, as it is not a legal person, the Staff Committee could not bring an original action ;

¹ — Language of the Case: French.