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A progress for all achieved by the SFE!

Dear colleagues,

In 2016, the Commission organized internal competitions attended by many officials and temporary agents, as well as, for the first time, contract agents.

Several actions supported by the SFE were therefore brought against decisions of the jury refusing several agents, the right to compete on the grounds that they did not meet certain conditions provided for in the various notices of competition.

These reasons were clearly intended to exclude or limit the access of these internal competitions to these competent colleagues!

The SFE union has supported them against these decisions in order **to guarantee their rights and also yours in the future!**

The **positive result** declares void these decisions to exclude the applicants from the competition.

These "typical" cases will set a legal precedent and will allow you to consider this prospect and the opportunities for internal competitions during the next internal competition (which should take place at the end of 2018/2019).

Details of decisions:

In the case RS / Commission (T-73/17), the complainant is a member of the temporary staff who applied for the internal competition for the recruitment of officials in grade AST 2. He was not allowed to participate to the competition. on the grounds that, although he had 69 months of service, he had been placed on leave of personal grounds for 2 months during the 12 months preceding the closing of the competition. **The General Court quashed the decision to exclude the applicant from the competition** on the ground that the condition of admission at issue was not justified by the requirements of the posts to be filled. The Court finds that such a condition paradoxically leads to the exclusion of certain staff, such as the applicant, even though, because of a shorter period of their leave, they have been more present in the last twelve months by the Commission than other agents admitted to the internal competition in question.



(Click on the image to read the court judgment - several languages available)



In the case of S./Commission (T-79/17) the complainant is a member of the contract staff who applied for the internal competition for the recruitment of officials in grade AST 2. He was not allowed to compete. on the ground that he was classified in function group IV on the closing date of the competition entries, which was reserved for officials in function group III, even though he had been classified in function group III for five years. **The Court of First Instance cancelled that decision** after having found, first, that Article 82 (7) of the Conditions of Employment of Other Servants expressly empowers officials of Function Group IV to take part in competitions AST 1 to AST 4 or AD 5 to AD 6 and, secondly, that the Commission had not demonstrated that the over-qualification of the contractual agents in function group IV could have had a negative effect on the quality of their work, their performance or their motivation in the performance of a post in grade AST 2.

(Click on the image to read the court judgment - several languages available)

Lawyers:

The SFE union wishes to thank its lawyers who allowed these decisions that will set a legal precedent!



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Matières préférentielles

Fonction publique européenne, contentieux
européen, droit institutionnel

Sébastien Orlandi a développé une expertise
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plus\)](#)



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Thomas MARTIN pratique le droit de la
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