

OPINION OF MR ADVOCATE GENERAL DARMON  
delivered on 20 April 1988 \*

*Mr President,  
Members of the Court,*

1. This action is directed against the refusal of the Selection Board in Internal Competition No B/161, organized by the European Parliament, to admit a candidate to the tests in that competition. The applicant, Mr Arendt, considers that the reasons given for the rejection of his candidature were contradictory and therefore insufficient, that the decision was vitiated by manifest error, infringed the principle of good administration and failed to comply with the duty to have regard to the interests of officials.

2. Mr Arendt claims that the reasons given for the decision are contradictory, and therefore insufficient inasmuch as the initial explanation of his rejection suggested that he had failed to obtain the minimum mark set in respect of general education, general experience and specific experience, whereas the 'additional information', supplied subsequently, referred solely to the lack of sufficient specific experience.

3. There does not appear to be any contradiction in this respect. The Selection Board thereby stressed the aspect of specific experience, but this ground had already been cited previously. Accordingly, the emphasis placed on this requirement must be regarded as an additional explanation. In any event, this circumstance is not sufficient for the submission based on the contradictory nature of the reasons given to succeed.

4. In addition, according to Mr Arendt, the Board's decision was vitiated by manifest error because it disregarded the fact that the post currently held by him required him to have proven knowledge of accountancy, according to the vacancy notice for that post. The Board had taken into consideration only the nature of the duties described in the vacancy notice, namely the carrying out of calculations.

5. It is undeniable that the vacancy notice for the post held by Mr Arendt referred to the requirement of 'proven knowledge of accountancy'. It is equally certain that that document stated, in describing the nature of the duties carried out by him, that they consisted of 'clerical tasks of an administrative nature' involving various calculations relating to social security and pensions.

6. Knowledge of accountancy, like all other knowledge moreover, cannot be assessed in the abstract but must be considered in relation to the duties to which it is applied. The Court adopted a similar reasoning in its judgment in the *Vlachou* case,<sup>1</sup> stating that experience must be assessed in relation to the post in question.

7. In this case, it appears from the documents submitted to the Selection Board that Mr Arendt's duties consisted of calculation and operations of arithmetic, which is confirmed by the reply to the question put by the Court to the European Parliament. The experience thus acquired was taken into consideration under option 3. On the other

\* Translated from the French.

<sup>1</sup> — Judgment of 6 February 1986 in Case 162/84 *Vlachou v Court of Auditors* [1986] ECR 481.

hand, the Board took the view that it had no bearing on options 1 and 2. According to the notice of competition those options concerned important supervisory duties with regard to accounts and the application of the Financial Regulation. Consequently there can in my view be no question of it being manifestly incorrect to consider that the experience acquired by Mr Arendt in his current duties did not correspond to the nature of the duties described in the notice.

8. As regards the Selection Board's failure to comply with the principle of good administration and the duty to have regard to officials' interests, it is necessary at the outset to reject the Parliament's argument that the latter duty is incumbent only on the administration proper and not on a selection board. The Court has already held that selection boards are under such a duty, in its judgments in *Schwiering*<sup>2</sup> and *Maurissen*.<sup>3</sup>

9. It nevertheless remains to ascertain the extent to which the Board failed to observe the principle in question in this case.

10. In the first place, unlike the circumstances which gave rise to the *Schwiering* and *Maurissen* judgments, there is no suggestion whatsoever that the Board discarded additional documents submitted to them by the candidate. It is therefore necessary to determine whether the 'contradiction' in the vacancy notice relating to the applicant's current post should have led the Board to request the production of other documents in order to establish whether the candidate satisfied the conditions laid down regarding experience.

11. The duty to have regard to officials' interests reflects the necessary balance

between reciprocal rights and obligations in relations between the public authorities and civil servants. However, the search for such a balance cannot entail an obligation for the selection board to make up the candidate's file.

12. In submitting documents supporting his candidature, a candidate must make every effort to provide the information which will enable the selection board to find whether the requirements laid down in the notice of competition are satisfied. Moreover, there is nothing to suggest that Mr Arendt, when submitting his candidature, omitted any fundamental information for the assessment of his accountancy experience. In any event, it was for him to show, if possible, what such experience consisted of, having regard to the duties which he performs, which were described, it may be recalled, as calculations.

13. However, and above all, in recommending that the Court reject the complaint of a failure to observe the duty to have regard to the applicant's interests, it may be noted that Mr Arendt, who considers that the Board ought to have sought additional information, stated in a letter of 20 June 1986 which was among the documents submitted to the Court: 'I would draw your attention to the fact that I have not included any new documents in connection with this point because my file contains all the necessary documents for a correct assessment of my relevant experience'.

14. Finally, there would seem to be no ground for ordering the investigative measure sought by the applicant, namely the lodging of the minutes of the Selection Board's deliberations.

15. In my view therefore, the application should be dismissed and an appropriate order as to costs made.

2 — Judgment of 23 October 1986 in Case 321/85 *Schwiering v Court of Auditors* [1986] ECR 3199.

3 — Judgment of 4 February 1987 in Case 417/85 *Maurissen v Court of Auditors* [1987] ECR 551.