

UNIVERSITY OF PARDUBICE  
FACULTY OF ECONOMICS AND  
ADMINISTRATION

MASTER'S THESIS

2018

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## DISSERTATION ASSIGNMENT

(PROJECT, ART WORK, ART PERFORMANCE)

First name and surname: **Matilda Hammond**  
Study program: **N6202 Economic Policy and Administration**  
Identification number: **E15011**  
Specialization: **Regional Development and Governance**  
Topic name:  
Assigning department: **Institute of Administrative and Social Sciences**

### R u l e s   f o r   e l a b o r a t i o n :

Analysis of the EU civil servants Legal status, their recruitment, promotion, remuneration and other rights and duties. Protection of civil servants rights by court will be covered by an analysis of relevant case law. Results of the analysis will be generalized and will serve to advise whether tackled issues of some of the legal institutes can be incorporated into national legislations to reach their improvement.

#### OUTLINE THESIS:

- Reeruitment (conditions and requirements) and resruitment procedure
- Traineeship
- Ritghs and responsibilities of civil servants
- Remuneration
- Redundancy
- Protection of Rights

Scope of graphic works: —  
Scope of work report  
(scope of dissertation): cca 50 stran  
Form of dissertation elaboration: printed/electronical

List of specialized literature:

BERRY, E., HOMEWOOD, T., BOGUSZ, B. Complete European Union Law, texts, cases and materials. Oxford University press, UK. 2011.  
BRADLEY, K. The application of the Charter of Fundamental Rights in EU staff law. Academy of European Law (ERA) forum Brussels, 2014.  
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PEERSON, J., SHACKLEON, M. The Institutions of The European Union. Oxford University, UK, 2012.

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Institute of Administrative and Social Sciences



Date of dissertation assignment:

1 September 2017

Date of dissertation submission:

30 April 2018

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**UNIVERSITY OF PARDUBICE**

**FACULTY OF ECONOMICS AND ADMINISTRATION**

**Civil Service in European Union Institutions**

**Matilda E.N Hammond Ba.**

**Master's Thesis**

**2018**

## **DECLARATION**

I hereby declare:

This thesis was prepared separately. All the literary sources and the information I used in the thesis are listed in the bibliography.

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## **ACKNOWLEDGMENTS**

This thesis would not have been possible without the assistance and support of many individuals. I wish to acknowledge and express my deepest appreciation to these people for their invaluable contributions.

Firstly, I would like to thank the almighty God for being my source of strength and making my study a success. I owe my deepest gratitude to the supervisor of my thesis JUDr. Jana Janderova for her patience and immense support, her valuable advice and provision of materials were of great help.

My sincere appreciation is also extended my whole family, for their support and encouragement during difficult times. I cannot thank them enough for their unfailing support. Many thanks also go to Samuel Odei Amponsah, my best friends Antonia Oteng and Mavis Oboh, and my faculty for their immeasurable help during my study.

Lastly, a special thank you is reserved for my beloved mum Ing. Evelyn Efua Toseafa for his financial support, love, understanding, and constant encouragement that kept me focused and helped me find strength to continue when things got tough. I would not have made it without her unwavering faith in my ability to successfully complete my study.

## **ANNOTATION**

The European Union was established to promote social-political, economic harmony and fight against all forms of social exclusion and discrimination among European countries. European union institutions employ thousands of people from all EU member countries and its the attractive job option for the many because of the numerous benefits it provides its employees. The tenents of the European Union is to fight againsts all forms of discrimination and injustice among others, but there have been concerns raised about lots of disrminations against staffs who work with these European Union intitutions contrary to what its meant to fight for. The main objective of this Master thesis therefore was to assess the nature and functioning of the European Union institutions. The focus was to examine some case laws on discrimination and the lack of transparency in the European Unions' institutions against their employees. We therefore analysed some cases that was brought to the Civil service tribunal for arbitration. From the cases we analysed, it was was revealed that the European Union institutions were not transparent and fair in their civil servants' right protection. This made employees to resort to the civil service tribunal for settlements.

## **KEYWORDS**

*Arbitration, civil service, discrimination, European Union, European institutions, transparency.*

## **ANOTACE**

Evropská unie vznikla za účelem podpory sociálně-politického a ekonomického souladu a boje proti všem formám sociální exkluze a diskriminace v evropských zemích. Instituce Evropské unie zaměstnávají tisíce lidí ze všech členských zemí. Pro mnohé z nich je to velmi atraktivní zaměstnání, zejména z důvodu četných výhod, které svým zaměstnancům poskytuje. Jedním z cílů Evropské unie je bojovat proti všem formám diskriminace a nespravedlnosti, přesto však navzdory vytyčeným cílům existují obavy z diskriminace zaměstnanců pracujících pro evropské instituce. Hlavním cílem této diplomové práce proto bylo zhodnotit charakter a fungování institucí Evropské unie. Těžištěm bylo zhodnocení některých precedenčních případů diskriminace a nedostatečné transparentnosti v evropských institucích ve vztahu k jejím zaměstnancům. Byla provedena analýza některých případů, které byly řešeny před Soudem pro veřejnou službu. Výsledky analýzy

ukázaly, že instituce Evropské unie nebyly transparentní a korektní při ochraně práv svých státních úředníků. Jejich jednání přimělo tyto zaměstnance obrátit se na soud a žádat narovnání

## **KLÍČOVÁ SLOVA**

*Arbitráž, státní správa, diskriminace, Evropská unie, evropské instituce, transparentnost.*

## **NÁZEV**

*Státní správa v institucích Evropské unie*

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## **LIST OF ABBREVIATIONS**

AA	Appointing Authority
CS	Civil Service/ Civil Servants
Charter	European Union charter of fundamental rights
EC	European Commission
CJEU	Court of Justice of the European Union
EP	European Parliament
EPSO	European Personnel selection Office
EU	European Union
SR	Staff Regulations
TEU	Treaty of European Union
TFEU	Treaty on The Functioning of European Union
Tribunal	European Union Civil Service Tribunal



## **1 INTRODUCTION**

Civil service as a concept has been subject to changes over the years. In this recent years, the field of civil service has gain much attention and popularity among many scholars due to its importance in policymaking. The civil service systems (which is run by civil servants) are the basic factors in administration through which the will of the state or an organization is expressed. They run the state administration and manage public affairs. Civil Servants are the pillars of the state. They play a stellar role in meeting the objectives of any institution; as a result, have a great bearing on the activities of the state, organization or an institution.

Civil services are those branches of public service concerned with all governmental administrative functions outside the armed services. A system or method of appointing government employees based on competitive examinations, rather than by political patronage. As such, the concept of civil service can be term as an inevitable phenomenon in the establishment of a state, non-governmental organization and inter-governmental organizations.

The civil service has always been the tool available to the European community for the implementation of developmental goals and objectives. It is seen as a pivot for growth of the European Union. It is responsible for the creation of an appropriate and conducive environment in which the economy can perform optimally. It is this striking role of the public service that propel governments all over the world to search continuously for better ways to deliver their services (Ikeliowu, 2011).

Civil Service is the instrument which government use to regulate and manage all aspects of the society. Thus, the condition of a society is largely determined by the public service. Besides, it is from this governmental bureaucracy that all the other institutions obtain various types of approval, license and permits, which are critical to their existence and operation. In addition, government allocation of resources passes through the bureaucracy to all other areas of the society directly and indirectly. Therefore, all other institutions have to deal with the civil service at one point or the other in their existence and operations (Philips, 1990).

The European Civil Service is a generic term applied to all staff serving the institutions of the European Union (the Commission, EU Council of Ministers, the European Council, the European Parliament).

Tofan (2013) categorizes civil service in the European Union into two folds. First, there is the body of the employees in each country's own administration (national civil servants) whereby each Member State creates its own rules of law and regulations for its officials, in accordance with local legal system demands. Second, there are persons working in the EU institutions (European civil servants). People who work for EU institutions and bodies of the European Union are considered European public officials (in the narrow sense of the term), contract staff, or self-employment under a contract. With EU being an independent body, civil servants within the Union are not invested with public authority). As clearly stated in the article 11 of the staff regulation, “*an official shall carry out his duties and conduct himself solely with the interests of the Union in mind. He shall neither seek nor take instructions from any government, authority, organization or person outside his institution. He shall carry out the duties assigned to him objectively, impartially and in keeping with his duty of loyalty to the Union*” (Staff Regulation, 2014)

As a major instrument for implementing policies, the civil service in the European Union institutions is expected to be professionally competent, loyal and efficient. European Personnel Selection Office has the role in organizing the selection of civil servants into the institutions in a free, fair and transparent competition to depict the democratic feature of the European Union. Nevertheless, the works of Medal (2014) brings to bare a possible breach in the transparency of recruitment of European Union civil servants.

### 1.1 Aim of the Thesis

The main aim of this thesis work is to study and discover the nature of the European Union Civil Service, focusing mainly on the transparency and fairness of their recruitment procedure, basic rights of European Union civil servants, their remuneration and protection of their rights by the EU court of justice.

### 1.2 Thesis Objectives

The following objectives will help in achieving the aim of the thesis. Relevant cases of non-transparency on the part of EPSO that occurred in the recruitment procedures will be discussed. Relevant thesis questions have been formulated based on the literature reviewed.

- To review the literature relating to Civil service in European Union Institutions

- To analyse the nature Civil Service in EU institutions.
- To identify the fundamental rights entitled to each staff of the European Union Institutions.
- To discover the possible form of discrimination meted out to European union civil servants and how their rights are protected in the court of law (EU civil service tribunal).

### **1.3 Problem Statement**

The legacy of transparency in selecting or recruitment procedure of the civil servants into the European Union institutions has been marred by cases of discrimination towards some citizens by European Personnel Selection Office (EPSO).

The effective remuneration system of civil servants is an important precondition in the process of establishing a transparent and accountable civil service (Tsukhishvili, 2013). Civil Servants in the European Union institutions are said to be remunerated at a very high rate with a strong incentive structure in comparison to civil servants at the national levels of the various member states, which in turn fosters good performance (Berry et al., 2013). On the other hand, European Commission findings on Comparative study of the remuneration of officials of European Institutions states that the remuneration of civil servants of the EU Institutions and its structure is at par with the remuneration structure of other international organizations such as the United Nations and OCED.

The fundamental rights of European Union staff members have been guaranteed in the European Union Staff Regulations, as well as enshrined in the European Union Charter of fundamental rights, adopted in 2009 in which all institutions of the EU are inclusive in the protection of human rights (Hofmann, et al., 2011; Gattinara, 2015). The EU charter of fundamental rights has been instrumental in defining major rights of staff members, such as the protection of family life or the right to just and fair working conditions, and procedural rights in administrative and judicial proceedings (Gattinara, 2015). This governs the relations institutional employers and staff (Hofmann, et al., 2011; Bradley, 2015).

### **1.4 Thesis Questions**

The following research questions will be answered in this thesis

1. What are the fundamental rights of EU Civil Servants?
2. What are the processes involved in EU civil service recruitment?
3. How transparent is the EU civil service recruitment procedure?

4. Is there any form of discrimination in executing the rights of EU officials?
5. Are the rights of EU Civil Servants protected in the tribunal?

## **1.5 Significance of Study**

Undertaking this project has made me realize that very few researchers have focused on the topic area and as such, very little research has been conducted on this research area “Civil Service in European Union institutions”. Hence, the research report will add to existing literatures. For this reason, it can be referred to and make the base for further research on the same topic.

Due to the lack of research and existing documents on this area, this study will be significant and will add immensely to the insufficient literature or the research will add up to the stock of books and works already written on civil service in international organizations.

A study of this nature will help the European Union and other International organizations to adopt measures in the context of issues relating to civil service.

As one of the few researches studying the entire working and nature of the EU civil service, the study will serve as a springboard to those who want to delve much into civil service related research.

## **1.6 Sources of Data**

This work relied solely on secondary data analysis and used pre-existing data rather than primary sources due to my inability to conduct field research. According to Boslaugh (2007: 1), secondary analysis refers to “in the broadest sense, analysis of data collected by someone else”. Documents analysed include staff rules and staff regulations of the European Union. Cases for this thesis was selected from the civil service tribunal and the selection were based on issues relating to transparency, discrimination to support the aim of this research.

### **1.6.1 Research Design**

Data generated for this research was analysed qualitatively. “Qualitative Data Analysis is the range of processes and procedures whereby we move from the qualitative data that have been collected into some form of explanation, understanding or interpretation of the people and situations we are investigating” (Taylor and Gibbs, 2010: 1).

### **1.6.2 Data Analysis**

This thesis employed the descriptive approach of analysis. Comparison of data for this study from multiple sources served to enhance data quality which was in line with the principle of convergence and the validation of findings (Knafl & Breitmayer, 1989).

### **1.7 Thesis Outline**

This research is arranged in seven chapters. Chapter one comprises of the background of study, the problem statement, thesis aim and significance of study as well as the questions guiding this research. Chapter one also goes on to cover the methodology of the research including the sources of data, research design and data analysis. Chapter two (2) illustrates the theoretical framework of the study and reviewed literature on European union civil service which covers the difference between CS in EU member states and those in the EU institutions. Chapter three (3) elaborates on the recruitment procedure in the European Commission. Chapter four outlines the traineeship programs of the European Commission. Chapter five (5) is devoted to the remuneration system of the EU, Chapter six (6) focuses on cases of promotion and redundancy in the European Commission. Chapter seven (7) outlines the findings of the research which includes the level of transparency in EU institution and fairness of their recruitment procedure, possible discrimination that EU civil servants are likely to face and finally, how the general court and the civil service tribunal protects the rights of the civil servants when the institutions fail to address disputes amicably.

## **2. RIGHTS AND RESPONSIBILITIES OF EU CIVIL SERVICE**

This section of the thesis will mainly focus on the Concept of Civil Services (definition of terms), the different categories civil service in EU member states or how EU member states regard civil service will also be discussed, furthermore, this review will also focus mainly on what civil service within EU institutions is all about, who make up civil service as well as the various roles they play in the day to day running of their respective institutions. It is often believed that working with the EU institutions is a lucrative and life time job, this work will further consider some of the attractive benefits of EU civil service and the trend of employment for a couple of years will also be considered.

### **2.1. Civil service defined**

Before proceeding to the main task at hand, it is important to appreciate the meanings attributed to the key word of this research. According to Finlay (1966), formulating a precise meaning or definition for the term civil service in a legally accepted manner is almost impossible. The term civil service is said not to have a precise meaning; it can mean different things at different situations. The following provides the thought of several renowned scholars of their take in regard to the term “Civil Service”. Lulaj (2012) outlined two basic definitions of civil service in a presentation made in 2012. According to him, the term civil service can be expressed in basic terms as “Those branches of public service that is not legislative, judicial or military based, in which employment is usually based on competitive examination”. Lulaj further defined civil service as the entire body of persons employed by the civil branches of government”.

Parris (1969) also defined civil service as “a body of full-time, salaried officers systematically recruited with clear lines of authority and uniform rules on such questions as retirement”. The Tomlin Commission Report (1931) defines “civil servants” as “those servants of the Crown, other than holders of political or judicial offices, who are employed in a civil capacity and whose remuneration is paid wholly and directly out of monies voted by Parliament (Imtiaz, 2013).

### **2.2 Civil Service in the European Union**

The European civil service entails all the staffs that work for the European Union Institutions in all the EU member countries and its other delegations across the world. These employees can either

be full time and permanent staffs, contract employees and other part time workers. The list is not limited to researchers, translators, policy officers, lawyers etc. The civil service plays an instrumental role in national development (Adjel, 2008). The presence of a well-functioning civil service fosters respectable and quality policy making, effective service delivery, accountability and responsibility in using public resources which are features of good governance (Imtiaz, 2013).

The importance of civil service to the day to day running of administrative activities of a country stems from its strong binding characters, administrative and managerial ability of services, effective policy making and regulation and most importantly, the ability to effectively coordinate institutions of government (Imtiaz, 2013). Just as any other continent, majority of public employees in the European Union have the position of civil servants, what this means is the many of EU's public servants are governed by civil service laws which is a public law other than labour laws (Cardona, 2008; Gattinara, 2015). Cardona further explains that in order to understand the nature of civil service in EU, member states are categorized into main groups due to situational differences.

European civil servants' works are guided by codes of conduct when it comes to affecting their specialized duties at work or on retirements (Rhodes, 2016; Graham & Jordan, 2016). These special guiding rules are enshrined in the Staff Regulations as well as code of good administrative conduct (Kizielewicz, 2015). Countries such as Germany, Sweden and Netherlands traditionally have well-established civil service system that is independent from political influence in comparison with the EU (Kommers & Miller, 2012; Hoffmann-Lange, 2014). Countries classified as emerging from communist rule have no clear distinction between political party and public administration. These countries often struggle to set an independent civil service (Cardona, 2008).

### **2.2.1 Who is an EU civil servant?**

The European Civil Service is a basic term applied to all staffs employed by the Institutions of the EU (the Commission, EU Council of Ministers, the European Council, the European Parliament). According to Tofan (2013), an EU civil servant can be defined as a person who works for any of the European Union Institutions and its agencies, be it the European commission, Parliament, European Council among others. These set of employees are not vested with public authority, in other word EU civil servants fall outside political appointees of the European Union and are not bounded by politics of any sort. Sefcovic (2012) defined an EU civil servant as a neutral and

independent person or group of persons working within any of the EU institutions for the collective interest of the European community. EU civil servants are not obliged to serve their parochial interest or for the collective interest of any particular country or group.

Like civil servants within the member states or anywhere else in the world, activities of employees working for any of the European Union Institutions are guided and subjected to a set of rules and regulations as well as rights and obligations governing their actions and behaviour in the exercise of their professional duties. Borowska et al (2007) in their work described these rules as “ethical responsibility of EU Officials” in the sense that each and every civil servant will be held responsible for any deliberate violation or non-fulfilment of his/her official duties. Laws guiding EU civil service are enshrined in the European Union Staff Regulations and the European codes of good conduct (Mends, 2009).

The civil services in the EU are guided by code of conducts that is meant to ensure that EU civil servants behave professionally when performing their day to day duties (Trondal, 2001; Meyer-sahling, 2011). The code of conduct also provides civil servants with their expected responsibilities. According to Mends (2009) these codes of good conduct were set up originally with three main aims. First and foremost, the code of good conduct serves as a tool through which the European Ombudsman could access cases of maladministration and poor employee contribution. Secondly, the codes of good conduct services as a guide for employee of EU institutions and its bodies in regard to their relationship with the general public. Lastly, the code provides EU citizens of their rights and the standard of service they should expect from EU staff (Meyer-sahling, 2011).

### **2.2.2 Composition of Civil Servants in EU Institutions**

According to Sefcovic EU civil service is a large community on its own composed of employees with different contract types and employment statuses. Generally, civil servants within the various EU institutions are made up of permanent staff, contract staff, temporary staff, trainees and many others (Onggo et al., 2010). The above-mentioned contract types are explained further below.

- **Permanent Staff:** This type of employment status is awarded after an intense open competition. Permanent officials are categorized into three according to their functions. First set of permanent officials known as **administrators**. Their official duties include drafting of policies, implementing EU law, analysis etc. Another set of permanent staff are the Assistants, they employed to perform technical roles in finance, communication,

research and policy implementation and meanwhile Secretaries who make up the third category of permanent staff are generally tasked to manage the office and provide administrative support to the EU institutions.

- **Contract Staff:** Contract staff in EU institutions are employed over a fixed period of time which can be renewed as desired by the contract agent. Contract staff are recruited to provide manual or administrative support for EU institutions, they also service as clerks and secretaries. Additionally, contract staff are tasked to provide a backup support in special fields where are inadequate skilled officials.
- **Temporary Staff:** Civil servants with temporary staff status have similar roles to that of the contract staff. Their services are not on long term basis. However temporary staff usually have their posts in higher and specialized fields such as science and research.
- **Trainees:** Every year thousands of new graduates apply for EU jobs in order to increase their specialized skill and develop their personal qualities. Each year, the European parliament, Commission and the Council as well as other EU agencies give university graduates who wish to work with the EU institutions the chance to broaden their knowledge about EU jobs. EU traineeships lasts between 3-5 months with opportunities in law, human resources, environmental policies, communications and many more.

### **2.2.3 Benefits of working with European Union Institutions**

Working for the European Union institutions is not just a job; it's a life time experience for the workers. Being a civil servant at any European Union institutions and its agencies is believed to come with enormous benefits.

- **Competitive Remuneration:** Civil servants working for the European civil services receive salaries that are above what other institutions and competitors presently pay for similar work, this is aimed at boosting their moral to work diligently (Pagnattaro & Greene, 2011). Their salaries are supplemented by numerous allowances, such as relocation allowances for living and working in a different country etc. (Sabathil et al., 2008). They are also entitled to Salary increment when their responsibilities, performance and professional development increase (Kassim et al., 2013). The Commission has also taken major initiatives to reform the Staff Regulations in all EU Institutions and bodies to increase salaries of lower entry-level, and contract agent category (Rubery & Piasna, 2016)

- **Continuous training and Self-Development:** European Union civil service is a dynamic as such the institutions create several opportunities for its workers to develop themselves career wise and in other aspects as well. The Commission provides in-house activities for staff development to enable them to perform better and be efficient as well as to update their skills and knowledge (Georgakakis, 2017). These are done by offering training and mentoring, formal and informal process of learning, job mobility all aimed at improving the knowledge base and skills of their employees (García-Peñalvo, 2016). All EU staff strive to climb higher on the career ladder, thereby grasping the opportunity to develop the skills to meet the requirements for their career. Individual staff members are required to play an active role in identifying and developing their inter-personal potential, but the Commission shares the responsibility for training with their staffs.
- **Reliable Retirement Package:** One other benefit the EU civil servants gain after their long service is their entitlement to a befitting and reliable pension package. The EU civil servants are placed on pension systems that allow ex workers to enjoy a well-deserved pension after their long working life (De Vroom & Øverbye, 2017). EU civil servants who have worked an average of 37.5 hours a week and who retire at age 65 receive on 70 % of their final basic salary if they have worked for at least 30 years at the EU institutions (EU, 2009). EU civil servants make contributions of about 11.3% of their basic remuneration to a retirement fund; employees receive their contribution in addition to their pension payments from the general administrative budget of the Commission (EU, 2009).
- **Ability to work in a challenging and Multi – cultural environment.** The European commission is a pool of talents from different parts of the European Union. Brussels and Luxembourg are multi-cultural and diverse cities and host of EU Institutions and other international establishments and companies, people from all over the continent can be found in these cities who have equally come to work and live so, as an EU employee you can benefit by learning different languages spoken in the streets and cultures (Koffman, 2014; Ahmad, 2017).
- **Diversity and equality.** The European institutions as an employer, does not discriminate when it comes to their employment on whatever grounds (religion or belief race, ethnic or social genetics sex features origin, colour, language, political or any other opinion, disability, age or sexual orientation). This unique attribute of the EU as an employer

guarantees that prospective employees will be given the same opportunity to demonstrate their abilities and potentials (Terjesen et al., 2015; Parsons & Lesley, 2017). Diversity can drive innovation and lead to improved competitiveness of both the institution and individual employees.

### **2.3. Rights of the EU Civil Servants**

According to Bradley (2015), rights of the EU civil servant has long been established in the European Union Charter of fundamental rights. Rights of EU civil servants are set in legal instruments at different levels, such as the treaties which contains several rules and principles and ultimately the staff regulations which contains all the rules and regulation binding both employers (the institutions) and employees (EU civil servants) (Gattinara, 2015).

#### **2.3.1 European Union Staff Regulations**

The most important of all sources of EU staff laws is the staff regulation (Gattinara, 2015). The European Union Staff regulations and its appendices was adopted by the committee of ministers. It is the official document of the European Union that contains all the rules and regulations governing the actions and behaviour of all employees in the EU institutions including those working for the Commission, the Council of the European and Union EU Parliament among others. All EU staffs are obliged to observe all rules governing the performance of their respective duties as well as those relating to other aspects of their lives (Borowska et al, 2007)

In addition to the rules and regulations, the EU staff regulations is also the official document that contains employment details of all EU staff including their terms and conditions of employment, the rights and responsibilities as employees, remuneration (allowances), terms of promotions etc.

In title three (3) of chapter one (1) from article 29 to article 34, the staff regulations of the EU contain the entire proceedings of recruitment of EU civil servants from selection stages until employment. Article 35 to article 42 of Chapter two of the EU Staff regulations delineates the administrative status of civil servants of EU institutions, comprising mainly of non-active and active staff. Issues related to promotion of EU civil servants including eligibility criteria are all defined in chapter three (3), from article 43 to 46. In addition, the EU staff regulations states termination, types of termination in the EU and their causes in chapter four (4) article 47 to 51. Title chapter one cover remuneration and allowances entitled to EU civil service and further elaborated on in Annex VII sections one (1) to four (4). Whiles rights and obligation of European

Union civil servants are covered in the title II from articles 11 to 26a. The EU staff regulation is more or less the constitution that governs all aspects of EU employment

### **2.3.2 Treaties**

Treaties are defined as formally concluded and ratified agreements between states. Treaties originally contains a number of principles and rules which are of general application for the European Union as a whole such as the prohibition of discrimination of the grounds of nationality. However, there are some principles and rules outlined in the treaties which are specific to the European Union civil service. Article of 298 of TFEU states that the EU institutions “shall have the support of an open, efficient, and independent European administration”. Alongside the treaties, the European Court of Justice also has rules which are not explicitly laid down in the treaties and usually for general purpose but also very relevant in running the day to day activities of EU institutions regarding their civil servants. Such rules include the fundamental rights in article 41 of the EU Charter of fundamental rights (Bradley, 2015).

## **2.4 Rights and responsibilities of civil servants in European Union institutions**

According to Bradley (2015), the fundamental rights of EU staff members have been protected long before the Charter was adopted. The rights and responsibilities of the EU staff as well as the institutions themselves are outlined in the EU SR and treaties which contains many rules and principles including the prohibition of discrimination of EU civil servants based on their sex, colour, and on the grounds of nationality. The institutions and agencies are obliged to respects the fundamental rights to reflect their administrative heritage (Gattinar, 2015). EU officials re entitled to several rights which are enshrined in the staff regulations.

### **2.4.1 Fundamental rights of EU Civil Servants**

Some of the basic right such as starts at the very moment an individual will decide to render service to any European Union Institutions whereas other rights are open for officials who have already gone through the recruitment stages and have become staff member of the EU institutions, these rights include the right to recruitment, right to good working condition such as working hours and leave, right to social security benefits, remuneration and right for protection, to mention but a few. Below shows further explanation of these rights as listed.

1. **Recruitment:** The right for recruitment is the premier or the very first rights for all EU citizens even before they join the institution. Recruitment right starts at the very moment an EU national makes the decision to join the large pool of civil servants in European Union institutions. All EU nationals have the right to go through a free, fair and transparent recruitment process, provided they fulfil all the necessary requirement as stated in the EU SR. Recruitment right will be discussed further in the next chapter.
2. **Good working conditions:** According to Raziq A et al (2014). One of the challenges for an organization or business to satisfy its employees is to be able to cope with ever changing and evolving environment so as to remain in competition and achieve success. Raziq stresses that, providing good working conditions for employees ensures efficiency, effectiveness, productivity and job commitment. Good working conditions includes a safe environment free of harassment, annual and special leave and retirement benefit (article 6, chapter 2 of Annex X)
  - Annual and special Leave: As stated in Annex v article two (2) of the staff regulation, EU civil servants are entitled to an annual leave, which may be taken all at once or periodically as desired by the official. Should the CS contract any form of sickness during the course of the leave, the leave will be compensated for the duration of the sickness on the provision of proof of sickness. On occasion of marriage, child birth, relocation, death of spouse and so on, the CS may apply for days off in addition to annual leave.
  - Pension / retirement benefits: Benefits after retirement is the one of the effective ways to retain the future of employees. European union civil servants are alleged to hold one of the most lucrative retirements benefits. Article 2 of section 1 of Annex VIII of the EU Staff Regulations stipulates that, retirement shall be paid based on the number of years an official has worked. Article 77 of the SR also states that, all EU civil servants, having worked with the institutions for a period of 10 years at least or more is eligible for retirement mention. 70% of the basic salary of the last position held by the applicant will be allocated as retirement benefit, of 1.80% will be given to the official per year.
  - Working hours: All EU CSs are entitled to 40 to 47 hours of work per week, depending on the decision of the appointing authority. They are entitled to flexible working hours as determined by the appointing authority as laid in article 55 of the SR. In article 56a

of the SR, an official is entitled to special allowances if he / she is expected to work at night, on weekends or during public holidays. Civil servants who are tasked with tedious jobs also have rights to special allowances.

**3. Remuneration:** Calvin O.Y (2017) states that, good remuneration is the best way to keep talented and productive employees and to attract their likes into organisation. EU institutions are alleged to have very lucrative remuneration system based on ranks or grades of employment. In addition to their basic salaries, EU official enjoy numerous non-taxed allowances such as expatriation allowances, dependent child allowance, household allowance among others which will be discussed during the course of the work

**4. Protection of rights.** In reference to Bradley (2013), EU civil servants have the right to be protected by the law court in case of disputes that may arise between the staffs and their EU institutions for infringement of their basic rights.

#### **2.4.1 Responsibilities of EU Civil Servants**

According to Borowska et al (2012), civil servants of the European Union Institutions serve as the link between the EU citizens and the EU politicians. Due to the crucial role they play with the European Union, EU civil servants are subjected to a number of obligations that governs their actions and behaviour in the course of exercising their professionalism. As stated in the early part of this work, these rules are carefully and clearly laid in the European union staff regulation and the code of good administrative behaviour. All EU civil servants are expected to go by these rules as laid in title II article 11 of the staff regulation and stated below

- Loyalty: Being loyal is a very important factor in EU institutions. All civil servants in the institutions are obliged to carry on with their duties solely with European Union in mind without taking instructions from any entity outside of the institution including national governments, organizations and other higher authorities. He or she is expected to execute their duties assigned to them accurately and absolute fairness.
- EU civil servants are prohibited from taking gifts and favours from anyone outside of the institution without official permission from the appropriate authority. Official wishing to have access to these items must obtain permission from appropriate authority through the right channels (code of good conduct,2008).

- An official shall desist from any activity or behaviour that may have an adverse reflection on his position (staff regulation, article 12)
- EU civil servants are obliged to support decision makers of the union in order to fulfil the mission of the institutions and the European Union at large.
- EU civil servants are also prohibited from any form unhealthy activities such sexual, physical and psychological harassment.
- There should be no conflicts of interest on the part of the staff with activities that may directly or indirectly affect the interest of the institutions and the Union as a whole.

EU civil servants are expected to bear in mind these responsibilities conferred on them by virtue of being an EU staff, so as to be mindful of their activities and to avoid any form problems that might arise when these rules are not obeyed.

## **2.5 The Court of Justice of the European Union**

The European Union Court of Justice (ECJ) is one of the institutions and the supreme court of the European Union. Established in 1952 by the treaty of Paris and situated in Luxembourg, the main function is to interpret EU laws and ensure the effective and uniformed application of EU laws in all member states. The CJEU is also responsible for settling of disputes between EU institutions and nation governments (Bobek, 2014). The ECJ was formally comprised of three courts, namely the Court of Justice, the General Court and the Civil service tribunal, which is a specialized court purposely for arbitration between EU institutions and their civil servants.

### **2.5.1 European Civil Service Tribunal**

Established in 2004 by the Council of the EU, to reduce the work load of the General Court by the tribunal was to oversee to the settlement of disputes that arose between the EU institutions and their civil servants on work related issues (Cini, 2016). This duty was performed by the General Court until December 2005 when the tribunal became fully functional (Jablonskaitė-Martinaitienė et al, 2016). The civil service tribunal ceased to exist on the 1<sup>st</sup> of September 2016 with its duty conferred back to the General court.

### **2.1.2 Powers of Competences of CJEU**

Being the Supreme court of the EU, the CJEU IS endowed with numerous powers as listed below

- CJEU is responsible for the interpretation of EU laws: the CJEU ensures that EU laws are not applied differently in EU member states and EU institutions.
- CJEU monitors the application of EU laws and ensures that the EU laws are enforced in all EU member states and institutions accordingly without any breach.
- The is also responsible settlements disputes between Member States, between EU institutions and Member States, between different EU institutions and between EU institutions and companies or individuals.

As stated in the competencies, it is the duties of the court to ensure that disputes that within the EU is settled amicably following laid rules to guarantee justice. In this regard, the Court have formulated various ways to help civil servants whose rights have been violated by the EU institutions before are some of the ways the CJEU can help an EU civil servant to achieve justice.

The CJEU plays the mediating role between the EU civil servants and the institutions in cases brought before them. The court ensures that the institutions amend their decisions when they realized that the actions or inactions caused harm to the civil servants.

Furthermore, If the actions of the Institutions are proven to have violated on the rights of the civil servants in one way or the other, the CJEU annuls such decision to ensure justice prevails.

## **2.6 Trend of Employment of European Union Institutions**

Over the years, the European Commission, European Parliament and the Council have had the reputation of being largest employing institutions of the European Union in regard to civil service. Among these three institutions, European Commission has continually established its place as the largest civil service employing body with about 32,000 civil servants in total. European Parliament comes as the second largest after European Parliament with 6,000 civil servants followed by the council which has about 3000 employees.

The table in appendix 3 provides the total number of staff employed by the EU institutions. Figures for the European commission show a drastic increase in the number of employees (from 32,966 to 32,546) in 2016. It can be seen that the EU commission staff employee's staff numbers are reducing (from 32,546 to 32,230). This is due to an initiative adopted by the Commission (see 2014-2020 Multiannual Financial Framework (MFF)) to implement a 5% staff cut in all EU institutions by the

year 2018 in 32 EU (Virkus, 2015). This move proposed by the Commission is expected to save more than €1 billion by 2020 as well as it's is expected to save about €8 billion through these measure by 2020. This measure is expected to be adopted by all the EU institutions. The European Parliament was required to trim down its employee staff by 5 percent over five years (Peterson, 2017).

Mr Sefcovic described European Union Institutions as a community on its own made of about 56000 employees. European Commission holds the largest number of the total civil servants in EU institutions constituting 53%, followed by European Parliament carrying 14% and the Council being the third largest holds a total of 7% of all civil servants of European Union Institutions. Appendix 2 illustrates the breakdown of staff of the various EU institutions.

### **3 RECRUITMENTS IN EU CIVIL SERVICE**

This chapter is dedicated to recruitment in EU civil service. The chapter will cover definition of recruitment from various authors, how recruitment is termed in the EU institutions, followed by the requirements one needs to fulfil before applying for jobs in the institution. There will be an illustration of the recruitment procedure backed by relevant law cases that shows possible infringement on the rights of applicant during the recruitment procedure.

According to Asiedu-Appiah et al. (2013), “the recruitment and selection process is the first stage of the psychological contract between applicants and organizations, where information is mutually exchanged and role expectations are clarified and negotiated”. Recruitment is usually the first point of contact between employees and employers in general. Researchers indicate that effective recruitment practices and policies enable boards to find the best candidate for their organizations. According to Costello (2006), recruitment refers to as a set of activities and procedures used to legally obtain a sufficient number of qualified people at the right place and time so that the people and the organization can select each other in their own best short and long-term interests.

According to Ban, over the years European Union Institutions have relied on competition to recruit its civil servants. All citizens of European Union have the right to be recruitment fairly to work any European Union institution of their choice. Article 27 of the EU staff regulation stipulates that “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 Union”. Recruitment is the first point of contact for every EU citizen wishing to establish a career with any of the European Union Institutions (Vickers et al., 2014).

Recruitment is done through a sequence of competitive examinations organised by EPSO, who assess the competencies of the applicants, to select and reserve those who are qualified to fill vacancies available in various institutions (Christensen,2015)

#### **3.1 European Personnel Selection Office (EPSO)**

EPSO was established mainly to harmonize and rationalize the selection process by way of introducing better professionalism into the selection process, utilizing more efficient economic resources by creating economies of scale (Van-Biesen, 2006). The European Personnel Selection

Office (EPSO) is responsible for selecting staff to work for the Institutions and agencies of the European Union including the European Council, the European Court of Justice, the Court of Auditors, European Parliament, the European External Action Service, European Commission among others. The European Personnel Selection Office (EPSO) was officially established in 2002 as the agency responsible for organizing competitions. EPSO staffs are mainly from the European Commission (EC) and other institutions (Van-Biesen, 2006; Ban, 2008).

Before one is recruited for a position in any EU institutions, there are several criteria that needs to be fulfilled. Below are the necessary criteria that a potential applicant needs to consider before applying for a position with EU institutions (Bearfield, 2013)

### **3.2 Eligibility and EU institutions job requirements**

Gaining employment with the EU institutions is guided by a set of guidelines and requirements that prospective applicant need to meet. The recruitment process is under the watch of the European Personnel Selection office (EPSO). The European Personnel Selection Office (EPSO) is the first point of call for prospective applicants wanting to work for the EU and its institutions. The EPSO is solely tasked to organize open competitions to select would be permanent staff. The open competitions are to assess and measure the candidates' skills and abilities through a run of tests and assessments, the aim of these series of tests are to ensure that only the very best people are employed to enhance efficiency. Recruitment to the EU institutions can be on a permanent basis or non-permanent basis (contractual employees, traineeships and temporary staff). The EU institutions do not have a fixed requirement. But rather these requirements are based on the type of job being applied for. But basically, it considers the following when it comes to reviewing job applications from applicants (Sabathil et al., 2018)

#### **3.2.1 Citizenship Requirements**

Citizenship is one of the requirements and the first criteria to be considered for employment in any European Union institution. As a citizen of the 28-member states of the European Union, the perspective applicant is automatically qualified for any position in the EU institutions and its bodies. The applicant should possess full rights (freedom of movement, freedom to work) without any form of restriction and criminal records what so ever.

### **3.2.2 Language Requirements**

European Union is the linguistic diverse organization in the world. One of EU's greatest aspirations is to be united even in its diversity as such; a holistic multilingualism approach has been adopted to provide support and visibility to the languages of Europe by granting them the highest possible degree of recognition. We can attest to the fact that, a democratic linguistic basis is of paramount importance in the EU incorporation processes in order to ensure a democratic union, Christiansen (2006), giving all official languages equal rights and status. European Union currently has 24 official languages spoken from 28-member states (Kuzelewska, 2014). Language is a key requirement for people who wish to work for European Union and any of its Institutions. According to EPSO, to be gainfully employed as a civil servant of the EU and its Institutions, an applicant must not only be a citizen of any member state of the union, he or she is also required to have an accurate knowledge of any of the 24 official languages, most importantly, a thorough knowledge of a C1 category language (mother tongue of applicant) and a satisfactory knowledge of a B2 category language (any chosen language from the 24 official languages).

### **3.2.3 Educational Requirements**

The European Union employs people from all walks of life (Onggo et al., 2010). EU as an international organization believes in giving opportunities to all citizens of all 28-member states. Acquisition of education is a major requirement for EU careers. To qualify for a specified profile and the related grade, prospective applicants must have the required level of education, as defined in the vacancy notice. European Union does not define a specific standard of education. Educational requirements vary according to positions (graduate and non-graduate). Generally, all non-graduate position includes function group I, manual and administrative support; assistant-level /function groups II, clerical/secretarial/office management, function group III administrative/advisory/ linguistic/technical) require (at least) that you have completed secondary education. Graduate positions within the EU institutions are administrator-level/function group IV). Applicants vying for any of these positions are required to have at least completed university education (of three years). After being sure that all criteria are met without any shortcomings, the potential applicant can apply and be ready for their recruitment procedure as listed below.

### **3.3 Recruitment Procedure**

Article 29 (2) articulates that when citizens of EU member states who intend to work with any of the EU institutions need to pass the recruitment competition organized by the EPSO which assesses their qualifications and background through a series of listed below.

#### **3.3.1 Open Competition**

The first stage of the recruitment procedure is announcement of vacancy (Ban, 2008). During this stage, all vacant positions and their entry requirements are posted on the EPSO website as well as local newspapers of all member states. From here potential and qualified candidates are expected to apply. In the work Medal (2007), EU staff recruitment according to EU principles must be transparent and in the effort to ensure transparency applicants for must be informed about their performances in the assessment tests (Van-Biesen, 2006). An attempt for EPSO not to provide exam documents when requested will be termed as infringement on the right of the individual as in the case F-35/08 (Mr Dimitrios Pachtitis vs the commission). In 2007, Mr Dimitrios Pachtitis who was a prospective candidate contested the decision of EPSO to eliminate him from the recruitment. Mr Dimitrios Pachtitis, pursued a number of legal and administrative actions against the European institutions to challenge the decision of his elimination from the competition and their failure to comply with the EU principles of transparency. The candidate demanded for a review of the decision as well as a copy of his questions and answers in those tests. Despite insisting, all that Mr Pachtitis managed to get was a statement several months later with the number of questions, the letters conforming to his answers and those corresponding to the correct answers as well as the assurance that his tests did not include any of the annulled questions. The court saw the exclusion of Pachtitis as unlawful on the basis that, the applicant's exclusion was conducted by an authority that did not possess such powers. According to the staff regulation, the only authority that has power to exclude applicants from the EPSO completion is the selection board, EPSO is only tasked to organize the examination (Gattinara, 2015). Also, inability of EPSO to provide all the documents requested by the applicant could be classified as a breach of the principle of transparency, this was a clear case of breaches of several EU essential principles such as proportionality, equal treatment and objectivity. This assertion made by the civil service court was also supported by the Ombudsman, that also accused EPSO of not been fair to granting candidates access to documents upon request.

### **3.3.2 Pre-selection test / talent screen test**

The main purpose of the pre-selection test is to prune down the large number of applicants registered to partake in the competition, including trainees and other contract staffs who aim to become permanent officials (Baneth, 2013). Pre-selection tests are administered online at accredited assessment centers in all member states and some third countries for interested participants who live outside Europe (Andrews, 2006). Also known as the “talent screener”, it is designed to assist the selection board to cut down the large number of applicants. All applicants answer the same series of question based on the selection criteria as given in the competition notice. This allows the selection board to identify the candidates whose profile best suited the duties and selection criteria set out in the competition notice. Applicants whose profile do not meet the criteria will be dropped off the competition. During the talent screener test, applicants are obliged to read all general rules governing the competition carefully in order to provide the right answers to the questions, answers relating to the general and specific conditions will be processed to determine whether you can be included in the list of candidates who fulfil all the conditions for admission to the competition. Failure to provide the right answers to shows one’s eligibility will result in dismissal from the open competition. As it was in the case of *Kozak vs European Commission* (F-152/15), where the applicant was refused admission to the assessment center to participate in the open completion.

According to Miss Kozak who is a lawyer by profession, her reasons for not making the required mark the talent screener is the misleading nature of information given on how to provide details of professional experience. According to Kozak, the misleading nature of the test instructions prevented her from stating her experience as an assistant to a member of European Parliament, thinking it was irrelevant to the field of competition and because it had taken place five years prior to the test. This case was dismissed in court because not all competitors were faced with same problem as Kozak. Also, it is in the duty of the applicant to read and understand rules governing each stage of the recruitment process no matter how complex it is.

The nature of EU jobs requires people who are smart and analytical in thinking. Kozak’s inability to fulfil the ultimate rule of the competition which is to read and understand exam rules depicts that she is not prepared for the task ahead as an EU staff.

### **3.3.3 Review of Qualification**

Reviewing of qualification is the third stage of the recruitment procedure. Applicants who are successful at the pre-selection test proceed unto the review qualification stage (Vickers, 2014). The stage deals with reviewing of candidates Curriculum Vitae and degrees to test the eligibility of the applicant, ensuring that he or meets the formal educational requirements and years of work experience that befits the position applied (Cascio, 2018). All candidates who are found not to meet these criteria as according to their education and professional experience will not be admitted to the next stage.

A vivid example in such situation can be seen in the court case between Bernat Montagut Viladot and the European Commission, registered under case **T-696/14**. The applicant who had applied for the position of grade AD 5 missed a place on the reserve list because he did not meet the educational criteria for the position he applied for. Reasons that influenced the court ruling against the applicant after further investigation was the confirmation from the Spanish education ministry that his certificate met neither the general Spanish nor EU standard.

Also, in the case **F-135/15**, the applicant did not fulfill the educational as well as the three (3) years professional experience for the vacant managerial position her applied for. According to the applicant himself during the court proceedings, his professional experience was in inspection and mechanics but for managerial positions as requested. Further, the applicant was unable to provide enough evidence for the selection board to access his educational qualification.

In case **F 1/14**, Miss Danuta, Spanish national's application to participate in the recruitment process was denied, reason being that she did not have the three-university education required for the position she had applied for. Unlike the applicant in **F-135/15**, Danuta proved educational eligibility by attaching a translated version of all her university certificates in an email to the selection board. Her ability to prove herself gave her the chance to be admitted sitting for the open exam.

### **3.3.4 The Written Examination**

Recruitment examinations in this stage are tailored to test the knowledge base of the prospective applicant (Chapman et al, 2005; Sundell, 2014). The EU examinations are conducted in specific fields such as law, economics, information technology etc. The process is overseen and managed

by a selection board made up of members designated by the administration of the Institutions. Examination in this section composes of multi choice and essay questions. Candidates are mandated to score extremely high grades.

### **3.3.5 Oral Examination**

After a success with the written test, the preceding stage is the oral examination (Sundell, 2014) marks the final stage of the series of exams one has to go through to get recruited into any of the European Union Institutions (Meyer-Sahling & Mikkelsen, 2016). Qualified candidates from the written exams are transported to Brussels for vis-à-vis questioning with members of the selection board in which candidates prove their communication skills, personality and their motivation for a career in an EU Institution.

### **3.3.6 The Reserve List**

The carpet rolling stage of the long and tedious recruitment process of EU institutions is the reserve list, pasted on the EPSO website after the oral examination (Ban, 2013). Candidates who find their names on the list will have to wait for calls to recruit into the Institutions they fit in as and when they are needed. Attesting to the processes above, becoming a civil servant in any of the EU institutions is long and tedious for both candidates and EPSO. Road to EU civil service is not all rosy, as it may seem. Ability to make it to the reserve list does not guarantee candidates a quick recruitment into the various institutions (König et al., 2015). Some qualified candidates have to wait from weeks to months without being called. Validity of the reserve list is one year, thus candidates who are not called before the validity period either find interest in other fields or go through the same process repeatedly. Figure one (1) in appendix one (1) shows EU recruitment procedure.

## **4 EUROPEAN UNION TRAINEESHIP**

This section of the research outlines the various stages of EU traineeship scheme. The main focus of this chapter will be on bringing out the understanding of what EU traineeship is about. The chapter will also centre on other areas of traineeship such as eligibility requirements, stages of selection of trainees as well as the benefits derived from it.

Traineeship forms a very important factor in EU institutions focusing mainly on young university graduates who desire to establish a career with the EU in future (Onggo et al., 2010; Kaleja & Egetenmeyer, 2017). Most civil servants started their careers as trainees. Almost all European Union institutions such as European Central Bank, Parliament, the council of the EU and European court of Justice to mention but a few, have their own forms of traineeship schemes. However, the focus of this work will be on the European Commission traineeship scheme which is by far the largest among all traineeship schemes in the institutions commonly known as the ‘Blue Book’ traineeship program (Commission, 2005). EU traineeship takes place twice in every year with about 700 participants in the commission and its smaller delegations. Traineeship is taken once, which means that applications are not recognised from candidates that benefit or have already benefited from any sort of in-service training (informal or formal, unpaid, paid) within a European institution or body, or have had any kind of employment in a European institution or body, for period more than six weeks, including those who have worked as assistants for staff members from EU institution, or EU representatives (Onggo et al., 2010). The essence of internships positions in the EU institution is to boost applicant’s employability skills and equip them with the much-needed working experience (Silva et al., 2018)

### **4.1 Eligibility of EU Traineeship**

To participate in EU traineeship, there are several criteria that needs to be met. Below are the eligibility criteria for young graduates who wish to establish career with the EU or participate in EU traineeship scheme provided by the European Commission.

#### **4.1.1 Nationality / Citizenship**

Most trainees of European Union institutions are nationals from all member states of the union. However, in instance where resources are still available, a limited number of interested participants from other third countries can be considered.

#### **4.1.2 Educational Qualification**

Before being admitted into the traineeship scheme, the candidate is obliged to have completed the higher cycle of education or university diploma at the time of application. It is the responsibility of candidates to provide all their university document in their online application and attach these documents to their posted forms. Also, applicants who have their educational documents in languages other than the official languages of the EU must have them translated.

#### **4.1.3 Language requirement**

All trainee applicants, both EU nationals and non-EU national are required to have adequate knowledge of at least one working language of the EU. Proficiency in the language other than the mother tongue must be proven with attached documents.

#### **4.1.4 Selection Process**

The process of recruitment or selection of trainees in the EU institutions follows the same pattern as those seeking to join EU civil service. It starts from online application, pre-selection test through to the final selection. Like EU civil service recruitment, an EU trainee can be withdrawn from the process if he or she does not meet the eligibility criteria. Such candidates can re-apply in subsequent training programs. Also, candidates can request for withdrawal from the completion at any stage just by informing the traineeship office; these candidates can also re-apply in subsequent training programs.

#### **4.1.5 Benefits of EU Traineeship to Trainees**

- Traineeships give young graduates a distinctive and immediate or practical experience on the daily workings of the EU institutions.
- Trainees are given the opportunity to work in a multi-cultural, multi-linguistic and multi-ethnic environment, which will in the long run help them develop their levels of trust and tolerance.
- By introducing these graduates into the professional world, it gives them the opportunity to put into practice the knowledge acquired from their various fields of competence. The EU institutions on the other hand also benefit these young and vibrant graduates with fresh academic knowledge who contribute in sharing their new ideas to help boot the day to day activities of the institutions.

## **5 EU CIVIL SERVICE REMUNERATION**

Focusing on the European Union staff regulation, this chapter will lay the remuneration (salaries) of EU civil servants according to their grades. In addition to the basic salary, emphasis will be placed also on other untaxed allowances such as expatriation, dependent child and household allowances enjoyed by EU civil servants as stated in chapter two (2). There will be analyses of case laws relevant to findings in this chapter in order to demonstrate possible discriminations and infringement on the rights of civil servants.

### **5.1 Right to Remuneration**

Article 62 and 63 of the Staff Regulation postulates that any official duly appointed by any of the EU institutions shall be eligible to a remuneration that commensurate his grade and step. This remuneration shall encompass basic payment, family allowances and other allowances. According to Maduabum (1998), remuneration could be conceptualized as compensation received by an employee for services rendered during a specified period such as weekly, monthly, or yearly. Essentially, this refers to money paid in concrete terms in return for a job done.

Remuneration plays a very crucial role in the life of an employee and the employer. Anjorin (1992) affirms that, in practice, remuneration or salary policy serves three principal needs. These are to: attract capable and sufficient employees to the organization; motivate employees towards superior performance; and to retain good employees. Thus, all organizations in order to have employees put in their all must ensure they are satisfied with their pay. The purpose of pay is to compensate the employee for work done, to motivate the employee to perform well and to retain the employee avoiding the need for expensive recruitment and training for replacements.

European Union institutions in their quest to attract capable and sufficient employees who will put in their best efforts towards the attainment of a unified continent ensure that their employees are happy with salaries, as such civil servants working for European Union institutions are perceived have very lucrative and enviable salaries as compared to those in the member states. EU salaries are recorded in euros per calendar month in the Staff Regulations. Civil servants' compensation and rewards has several components with the ultimate being the base salary. A table below shows the basic salaries of EU staff according to their categories and grades.

Appendix 5 shows the basic salaries of civil servants in the EU institutions. The tables display all sixteen salary classes in five categories based on seniority. The least salary class in category one stands at 2675,40 euros as opposed the highest salary class of the same category 17 054,40 euros. Civil servants in category five, being the seniors to all civil servants is made of 15 salary classes and have their highest salary 17 054,40 with the lowest classes earning 3027,04 euros per month. In addition to the basic monthly salaries, European Union civil servants enjoy a number of untaxed allowances, some of which will be discussed below. Two of these numerous allowances will be discussed below accompanied with relevant case laws.

## **5.2 Family Allowances**

According to article 67 and Annex VII of the staff regulation, family allowances comprises of education allowance, dependent child allowance and household allowance. These allowances are paid to staff or officials of European Union institutions according to the currencies in the countries in which they live. The focus under this topic is child dependent allowance and terms of eligibility.

### **5.2.1 Dependent child Allowance**

According to Annex VII of the EU Staff Regulations, specifically article 2 of section 1, the dependent child allowance is among the many benefits for civil servants of the European Union Institutions, which is a long-term benefit provided to families with dependent children. Article two of the staff regulation defines a dependent child as “The legitimate, natural or adopted child of an official or of his spouse, who is actually being maintained and taken care of by the official”. The dependent child allowance may be doubled up, by special decision of the appointing authority based on medical proof establishing that the child concerned has a disability or a long-term illness which involves the official in heavy expenditure. Dependent child allowance shall be awarded to

- *An official who has one or more children dependent shall, in accordance with paragraphs 2 and 3 below, receive [a monthly allowance] for each dependent child.*
- *Dependent child” means the legitimate, natural or adopted child of an official, or of his spouse, who is actually being maintained by the official (article 2, Annex VII)*
- *Any child whom the official has a responsibility to maintain under a judicial decision based on Member States’ legislation on the protection of minors shall be treated as a dependent child. And also*

- *If custody of the dependent child within the meaning of paragraphs 2 and 3 has been entrusted by law or by an order of court or of the competent administrative authority to another person, the dependent child allowance shall be paid to that person in the name and on behalf of the official.'*
- *However, Article 67(2) of the Staff Regulations states officials in receipt of family allowances shall declare allowances of like nature paid from other sources and such latter allowances shall be deducted from those paid under Articles 1, 2 and 3 of Annex VII.*

In this regard, there should be no form of discrimination what so ever in meeting out these to deserving staff. Every EU staff member who is able to provide the right document should enjoy these allowances without any discrepancies. Failure to do so will result reimbursement of money received from other sources when disclosed as stated in article 67 of the staff regulation like that in the case between EH and European Commission (**F-42/14**), where EH's wife was found to have been receiving national allowances on behalf of the same children who are beneficiaries of allowances from the institution. EH on the account was requested by the commission, together with the court to reimburse all of the money his wife had received from national over the years to the commission's account as stated in the staff regulation.

Above all, in order to have access to the dependent child allowance, it is duty of the official involved to produce supporting documents which shows the maintenance and responsibility of the child involved. An official who fails to provide these supporting documents especially in relation to adopted children and those from their spouses bear the risk of losing the dependent child allowance. As ruled by the court in the case (**F-47/15**) Darchy vs European Commission. The applicant applied for dependent child allowance for his two children from his spouse's previous marriage whom she married in 2011. This marriage automatically qualified the applicant for dependent child allowance as stated in the staff regulation. Nevertheless, the applicants request was rejected by the Commission's 'Management and Settlement of Individual Rights' Office (PMO) on the ground that the two children had not been proven to be maintained by the applicant. As the children in question live with the applicant and his spouse on alternate weeks. Therefore, it was the duty of the applicant to prove that she was actually in charge and responsible for the children's well-being since she married their mother in 2011. There is no way to claim allowance for children you don't live with permanently and because she could not prove that she actually was responsible

for the maintenance of the children who were not permanent residence in her household as required, her request for dependent child allowance was rejected.

Also in the case between Amarni and the commission (**F-65/12**), the applicant's request for dependent child allowance for his child from his wife's previous marriage was rejected on the basis that Amarni's wife herself was not an EU institution worker and had also not declared her inability to cater for her child. According to article 2 of the staff regulation, Amarni's marriage to the spouse automatically qualifies him to benefit from dependent child allowance for his wife's child who has now become his responsibility.

Also, what the commission failed to realize in this case was that, at the time of their reply in March, 2012, the wife of the applicant had also become a contract staff. The court ruled that, the commission's grounds for denying Armani was unfounded and considered to be maladministration on their part. Court finding revealed that the child in question lives under the same residence as the couple and the applicant is very much involved in the effective maintenance of the child's basic needs. Under these circumstances, the applicant was entitled to receive dependent child allowance. As a matter of fact, when both parents of a child are staff of EU institution, there is no need to prove maintenance of the child's needs. All claims of the Commission were annulled by the court.

### **5.2.2 Household Allowance**

Household allowances are a form compensation given to employees of an organization for basic living expenses. All civil servants of the EU institutions are entitled to benefit from the household allowances provided they meet the criteria as laid in article 1 of Annex VII, section 1 of the SR. According to EC. An allowance per household shall be set at the base of 176.01 euros in addition to 2% of your basic salary. If you have no dependent children but are married or in a partnership recognised as equivalent to marriage (specific conditions apply), you can be granted the household allowance if the income of your spouse stays below a set threshold. In article 1 of the SR, all staff must fulfil the criteria as listed below to make them eligible for house hold allowances.

- *A married official;*
- *If an official is widowed, divorced, legally separated or unmarried and has*
- *one or more dependent children within the meaning of Article 2 (2) and (3)*
- *When an official who is registered as a stable non-marital partner, provided that:*

- (i) *the couple produces a legal document recognised as such by a Member State, or any competent authority of a Member State, acknowledging their status as non-marital partners.*
- (ii) *neither partner is in a marital relationship or in another non-marital partnership.*
- (iii) *the partners are not related in any of the following ways: parent, child, grandparent, grandchild, brother, sister, aunt, uncle, nephew, niece, son-in-law, daughter-in-law,*
- (iv) *the couple has no access to legal marriage in a Member State; a couple shall be considered to have access to legal marriage for the purposes of this point only where the members of the couple meet all the conditions laid down by the legislation of a Member State permitting marriage of such a couple.*

It is the right of an EU staff to benefit from household allowances if he/she fulfils one of these criteria outlined in article 1 of Annex VII, section 1. EU institutions have the responsibility to consent with CS to enjoy this benefit without form of discrimination based on sex, nationality, or beliefs be it religious or personal. Such situation is an offense according to the SR and infringement on the rights of the staff. The case of Mr W and the EC (F 86/09) gives a clear picture. Mr W who is Moroccan by national, having married his gay partner had registered their union in the Belgian court, which means their union is legally recognized as stated in article 1 of the European Union staff regulation. He was however denied household allowance for the reason his Moroccan laws criminalises gay marriage. Such a reason is not tangible enough to denial to deny Mr W his rights. Moreover, there is no way Moroccan laws should bind on a citizen who is far away from the land. Also since the applicant lives and works in Belgium and Belgian laws supports gayism, the applicant can access and enjoy household allowance, which is his right as an EU civil servant. On these reasons, the court declared the EC's claims null and void.

### **5.2.3 Expatriation Allowance**

Globalisation has opened new opportunities not only for business enterprises, but their employees as well, with the speed at which the world is interconnecting, expatriation is not new to us anymore. (Kangas,2012). The practice of expatriation has been used increasingly for successful operations on a world scale, providing employees with the opportunity to gain some international experience and develop their international career (Ročkè, 2017)

The nature of jobs in European Union Institutions require a lot of movement from one territory of a member state to another for work purposes. Majority of worker of the European Union Institutions work outside of their home country, majority of whom are based in Belgium, Luxembourg and Strasbourg. The Belgium Expat guide in 2017 estimated, about 10% of the capital city's foreign population is made of highly skilled people working for EU institutions. Due to the nature of the job, expatriation allowance falls within the number of right which all EU civil servants are entitled to.

Article 4 of section 2 in Annex VII of the staff regulation states that, expatriation allowance given to EU civil servants equals 16% of the total of their basic salary, child dependency allowance and household allowance according to EU staff regulation and shall to paid to

- *Civil servants who have never been nationals in the countries where they work*
- *Civil servants who have never habitually resided and have not taken on any occupational responsibility in the countries they are posted to for the past five years and six months before service with EU institution.*
- *However, if an official has been habitually resident or worked in the country of employment during the whole duration of the reference period of 5 years ending 6 months before the entry into service, but do not have and have never had the nationality of his/her place of employment, the official will be entitled to the foreign residence allowance instead of the expatriation allowance) calculated on your basic salary, household allowance and dependent child allowance (if entitled)*
- *Officials who are or have been nationals of the State in whose territory the place where they are employed is situated but who during the ten years ending at the date of their entering the service habitually resided outside the European territory of that State for reasons other than the performance of duties in the service of a State or of an international organization*

According to European commission's office of administration and payment of individual entitlement, it is obligatory for staff to actual or past nationality in order to ensure the correct determination of your rights. And it is also mandatory to declare any change in nation during the course of service as such changes may have impact on entitlements. Expatriation allowance of EU staff should not be withheld or cancelled in any way, except in an instance where the staff is found to gone against the rules of eligibility in as stated in article 4 of the EU staff regulation, as in the

case of Jelenkowska-Luca and the European Commission, registered under case number F-114/12. Miss Luca married to an Italian national and gave birth to her first child in Italy. Prior to her marriage, she had studied and also taken up several within the Italian territory. Court investigation also revealed that, not only did Miss Luca study, work and marry in Italy, she went as far as putting things in place to acquire permanent residence in Italy. These factors show that the applicant clearly failed to fulfill all the criteria as listed in the staff regulation which enables her to automatically qualify for expatriation allowance.

Another case law that depicts an instant where a staff can be denied expatriation allowance can be seen in **(F-28/10)** between Mioni and the Commission. Having moved from France to Belgium with his parents at the age of six (6) and lived all his life without interruption in Belgium from 1987 until 1999, It is logical to conclude that Mioni had established his habitual residence in Belgium. And according to the second paragraph of eligibility criteria stated in article 4 of the staff regulation, any official who habitually resided and have taken on any occupational responsibility in the countries they are posted to for the past five years and six months before service with EU institution automatically gets disqualified for expatriation allowance. It is evident that Mioni did not accomplish the conditions that comes with expatriation allowances as laid in the staff regulation.

On the contrary, in the case of Dana Marie Pondichie vs the commission **(F-50/14)**, the applicant, a Romanian national had moved to Belgium since 2008 for study purposes and also pursued some internship programs while in Belgium. As at the time Dana joined European Commission as a contract agent, she was denied expatriation allowance on the grounds of establishing habitual residence in Belgium since 2008. As revealed by the court, the only difference between Dana and Mioni was that, while Mioni lived in Belgium uninterrupted, Dana on the other hand was a constant traveller. The court established during their findings that, Dana did not renew her expired tenancy in Belgium before she left for Luxembourg, which means that Dana did not have a place of abode in Belgium and as such cannot be considered as establishing habitual residence. On this note the claims of the commission was annulled.

As stated in article 4 of the staff regulation, an EU staff can be denied access to expatriation allowance if he or she is found to have carried main occupational duties or carried out functional

duties for an international organization during five years' reference period within the territory of the state where he or she has been employed to work. In reference to case of Jakob vs European Commission (F-151/12). In this case, Jakob who was a Danish national had been out of Denmark for over ten years pursuing education in other parts of Europe and had pursued 3months internship with the commission service, an International organization in 1993. Jakob was refused expatriation allowance after his transfer to Luxembourg on the grounds of the internship with the commission in 1993. In the argument of the court, internships or traineeship with the commission cannot be classified as falling within the concept of main occupational duties or function with international organization as according to point two of the rules governing traineeships with in EU institutions. Based on the courts arguments, it is evident that the commission's interpretation was wrong on their claims that the applicant had worked with the commission previously thereby denying him his allowance. On this ground the annulled the decision of the commission.

## **6 PROMOTION AND REDUNDANCY**

Chapter six delineates the various through an EU civil servant can lose his or her job in the institution. Promotion and promotions requirements will also be outlines as stated in the staff regulation. Again, this section of the thesis is backed by relevant case laws also to determine how the institutions infringe on civil servants right during perform these actions.

### **6.1 Promotion**

According to Healthfield, (2016) promotion is viewed as desirable by employees because of the prestige it comes with. The impact on remuneration, responsibility and its ability to influence broader organizational decisions. Promotions raise the status of employees and it's a sign of value and esteem that an employee is held by the employer. The desire for promotion is not different for civil servants within European Union Institutions. However, according to article 43 of the staff regulation, promotion of civil servants in the European Union Institutions depends on the ability, behaviour and efficiency in the service of each official and it shall be the subjected to yearly report as provided for by the appointing authority of each institution in accordance with Article 110. The annual report states if the performance level of the official has been satisfactory. Civil servants who can meet this criterion and have been in their current position for two years are given the opportunity to advance to the next level unless the annual reports prove their performance as unsatisfactory. Promotion in European Union Institutions is by decision of the appointing authority. According to article 45 of the staff regulation, an official whose name is listed for eligible promoters must have fulfilled the criteria listed below

- *The official must have stayed in the same position for a minimum of two years.*
- *The official is noted for excellent performance in their line of duty and is noted to be very efficient with work.*
- *The official has demonstrated the knowledge and use of languages other than the language he/she has produced evidence of having knowledge, showing his or her ability to work with a third language.*

Civil servants of all European Union Institutions who meet these criteria are eligible for promotion, except he or she fails to fulfil one or more of the elements listed above. Assessment of the merits / eligibility of official should be fair, just and as transparent as possible, in other words, there should be no form of discrimination on the bases of nationality, race, colour, religion or sex corresponding

to the case between HB and the European Commission, where HB was seeking for compensation having been denied promotion due to gender related issue.

The commission's appointing authority attributed their decision not to promote Miss HB to her absence from for more than 9 months in 2013 when she went on maternity leave, as a result her staff report had no substantial assessment for the year 2013. The court contrarily disagreed with the decision of the appointing authority and stated in their argument that, though HB was absent almost all of 2013, she still had reports for 2011 and 2012 as well as the first three months of 2013 which could have been used for her merit comparison with that of other officials. The court believed HB's absence was not the sole reason for non-promotion because some of HB colleagues who had been promoted for 2014 had been on maternity leave also in 2012. Both parties' inability to prove their case led to dismissal of the issue but commission had to bear half of HB's cost.

In addition, if a civil servant fails to fulfil all the eligibility criteria for staff promotion as stated in article 45 of the staff regulation, he or she gets automatically excluded from the list of officials eligible for promotion, a situation comparable to the case of Kotula and the European court of Justice (F-118/15). Mr Kotula came to the court seeking for annulment of non-promotion claiming he had been at his post longer than some his colleagues who were promoted. After a thorough comparison of merits of all eligible promoters, the court findings revealed Kotuls's performance was not higher than some of his colleagues as claim and he had not stayed in the same post longer than his colleagues that were promoted, on the grounds the stated that the appointing authority of the ECJ had all necessary procedure without form of discrimination in the promotion exercise. Courts thus, ruled against the applicant

Also, according to the staff regulation, the appointing authority is obliged to neither state reasons for promotion nor give explanations pertaining to promotion exercises to non-promoters. However, it is against the civil service laws and a breach on the principle to state reasons if appointing authorities of the institutions excludes the name of an EU civil servant who had fulfilled all the necessary requirements from the list of names of staff eligible for promotion without stating reasons to them (Gattinara, 2015). This is considered as an infringed on the rights of the civil servants such as the cases between Bouillez et al v Council (T158/13), Jaime and the European Commission (F-51/14). These officials though qualified for promotion in their various institution, their names were

excluded without any reasons. Since the institutions were found to have infringed on the principle of obligation to state reason and on the rights of the applicants, the court ruled in their favour.

## **6.2 Redundancy in European Union Institution Civil Service**

Redundancy can simply be understood as a form of dismissal of employees from their jobs. According to Waters (2007) job redundancy is defined as the “planned process of cutting back on human resources by terminating or making redundant, an individual's position within the organization”. This happens when employers downsize their workforce to reduce their employee numbers. There are two forms of redundancy i.e. voluntary and involuntary: involuntary redundancy occurs when employees are targeted for job loss against their own demands (Macken, et al., 1997). Voluntary redundancy on the other hand allow working employees to choose if they want to participate or continue with working with their current employer or not (DeWitt et al., 1998).

Most employers resort to redundancy to cut costs or increase their revenues (Poston & Grabski, 2001). In the context of the European Union civil service, a civil servant working with the EU can be made redundant based on compulsory resignation, when a breach of the eligibility criteria for employment in EU institutions as stated in article 28 of the staff regulation has been detected (Vosloo, 2011; Gattinara, 2015). At certain instances, the European Union institutions also compel civil servants to retire based on the interest of the service. Usually senior officials by decision of the appointing authority according to procedure stated in article 29 of the staff regulation. An official who is posted to dispersed to a posted to another grade will be entitled to allowances in accordance with rules of the SR.

However, retired employee receiving allowances as a result of being rendered redundant by EU institutions is obliged to declare salary received from new employee should he or she get employed during the period of redundancy. In come received is to be subtracted from the allowance being provided by EU institutions on account that, redundant employees new income in addition with the allowance exceeds the last income received by the employee before redundancy.

It is the responsibility of the redundant official to notify his new employers of factors that may affect his entitlements.

## **7 Analysis of case laws and protection of EU civil servant rights**

This chapter is dedicated mainly to the discussion of the outcomes of the law cases. Emphasis will be placed on the fairness of the court's ruling towards the civil servants. This chapter will also focus on cases of maladministration on the part of the EU institutions, we shall have a critical look as to whether the civil servants were given the form of justice they deserve from the court. Furthermore, this chapter will also focus on the commitment of the European Union institutions as to the rules and regulations set by themselves, which is the staff regulation. The European Union is based on a strong commitment to promote and protect human rights, democracy and rule of law worldwide. Protecting the rights of EU citizens and EU officials are at the heart of the union.

### **7.1 Rights of EU civil servants**

The concept of rights of employees is vital in all walks of life, knowing your right as an employee is important to avoid unfair treatments in the work place and not to miss out of things you are entitled to as an employee. The European Union, since the mid 70's has played a vital role in protecting the working people from exploitation and in fighting discrimination. The Treaty of the European Union (TEU), adopted in 2008, recognized the role of social and employment policy within the EU. Article S 2 and 3 of the TEU and article 19 of TFEU confirms that the EU is a community of values and one of its core objectives is to promote the well-being of its people. As such, The EU has adopted a various treaty provisions and directives which provide important employment protections, safeguard health and safety, and promote equality in the workplace. EU civil servants are also entitled to several rights as employees of the EU institution. These rights are vividly enshrined in the European Union staff regulation and begins the very moment one decides to join the institutions.

According to Bradley (2015), the EU charter of rights plays a vital role in the protection of the fundamental rights of civil servants in the EU institutions. It is the first point of reference union courts in interpreting individual decisions. In Bradley's work, the EU charter has been very influential in the essential rights of staff members.

The foregoing paragraphs focuses on analysing this entire work as guided by the thesis questions

## **7.2 Fundamental rights of the EU civil servants**

The story of how fundamental rights emerged in European Union has been retold. However, it is work restating for the benefit of this work, focusing mainly on the rights of European Union civil servants. According to Bradley, since the EU charter acquired Treaty status in 2009, it became instrumental in defining the substantial rights of EU staff. Per discussion made in the main literature, the European Union staff regulations outlines all the fundamental rights of civil servants of the European Union institutions. The most basic right of all is the right to recruitment which is entitled to all EU nationals. As discussed in the literature, the European Union civil servant just like anyone else is entitled to several rights which stems from the EU charter of rights and the EU staff regulation. The fundamental rights of EU civil servants start from the very day an EU national will decide to join the large pool of staff in the EU institutions with the right to recruitment, if individual is a free national and meets all the eligibility requirement or criteria.

## **7.3 Transparency of EU Recruitment Procedure.**

One of the principles governing the overall activities of the European Union civil service is the principle of transparency. The principle of transparency is enshrined in the Maastricht and Lisbon treaties. Transparency has become extremely important in the fight against opacity in its decision-making process to win the confidence and trust of the public. For this reason, all the European Union institutions, bodies, offices and agencies must work in the most open way.

The EPSO- the body in charge of civil servant's recruitment is also obliged to let transparency be their guide during their day-to-day activities, they must ensure that the recruitment procedure is transparent for future employees. The European Union in its sovereignty has put in place numerous measure to ensure the principle of transparency in EPSO selection process. Because of the effort to apply that principle, candidates who partake in the EPSO competition have the chance to access information pertaining to their performance in the exams. In a like manner, the court of justice of the European Union also recognizes transparency of the administration towards candidates in the selection process.

Despite efforts of the European Union to promote transparency within its daily activities, every year the General court as well as the European civil service tribunal sits on several cases related to non-transparency especially in their recruitment process. Five recruitment cases were discussed

based on recruitment, out of these three (3) went against the applicants and two (2) were in favour of the applicants. A critical look at the court proceedings and investigations of the cases, have arguably demonstrated that all the applicants won or lost genuinely.

Nevertheless, even though the two applicants that won in the court proceedings had tangible reasons to have been considered in their various institution, it took the court's intervention for them to have justice. It is evident, based on the analysed cases that, the European Union institutions are doing everything in their power to implement the principle of transparency. It can be concluded that the institutions still have room for improvement in dealing with their staffs due to the fact they sometimes they turn a blind eye on cases of their staff who seek redress from the civil service tribunal and the general court. Like the cases of the two applicants who later won in their cases, the court had to play the watch dog to ensure the principle of transparency was enforced.

### **7.3 Discrimination in EU civil service**

Discrimination has long been a fascinating and frustrating subject for social scientists over the years. There are numerous ways of discrimination at the workplace (Deitch et al., 2003). This can be in the forms of age, sex, disability, gender, race/colour etc. It's fascinating because it is a powerful mechanism underlying many historical and contemporary patterns of inequality and frustration because it is elusive and difficult to measure (Van Laer & Janssens, 2011). Discrimination, according to its most simple definition, refers to unequal treatment of persons or groups based on their race or ethnicity (Pager, 2006). Numerous organizations have putting in ample measures to curb or prohibit workplace discrimination (Krieger et al., 2006).

According to California's protection and advocacy system, discrimination is behavioural based on attitudes or beliefs (Kumar et al., 2015; Kite & Whitley Jr, 2016). Discrimination occurs when individuals or institutions unjustly deprive others of their rights to life opportunities due to circumstances, which may result in the exclusion or marginalization of people and deprive them of their civil rights, such as opportunities for employment, education, and full participation in public life (Griffin et al., 2016).

Under the European Union staff regulation (2014) and the EU charter of fundamental rights and protection from discrimination is of the essence in dealing with workers of EU institutions. In this regard, article 21 of the charter of fundamental rights and article 27 of the staff regulation prohibits any form of discrimination meted out on EU civil servants and EU citizens as a whole based on

any grounds such as sex, race, colour, ethnic or social origin, genetic features, language, religion or belief, political or any other opinion, membership of a national minority, property, birth, disability or age (Wrench, 2016).

Amongst all the cases discussed in the main literature, only one applicant in case **F-125/15** alleged being discriminated on the grounds of gender and its related issues, that is, for going on maternity leave for nine months in 2013 which resulted in insufficient annual report for merit comparison with other colleagues thereby getting her name excluded in the list of officials eligible for promotion in that year, though she had fulfilled all the requirements for promotion as stated in the staff regulation. The court believed that, the applicants absence from work for her maternity might not be the main cause of her not being promoted, citing examples with other colleagues of the applicants who had been on maternity leave also in 2012 but had their names included in the list for promotion.

However, since the commission was unable to provide other reason to oppose the claims of the applicant, the case was dismissed with half of applicant's requested compensation granted. Looking all the other cases brought before the case, it is obvious that all the applicant met with one form of discrimination or other. Also with case number F 86/09, the applicant a member of the European Commission's contract staff was discriminated and denied his household allowance because the Commission' Staff Regulations, considered him to be in a non-marital partnership which they do not consider as marriage, because the applicant was Moroccan and his country (Morocco) criminalizes same sex marriage meaning he couldn't be involved in such a union. But contrary to the Commissions' claim, the applicant was a Belgium national too. But irrespective of one's religion and national as enshrined in staff regulation, they can't be discriminated on any grounds. This was a clear case of discrimination based on nationality and belief of the applicant. So, in summary, all the applicants resorted to the law courts because they felt that rights were trampled upon and the court had to intervene to protect their rights which the Commission did not guaranty them.

#### **7.4 Protection of civil servants right in the court.**

The fundamental rights of EU staff members have been protected since long before the Charter was adopted. Since it acquired Treaty status in 2009, the Charter has nonetheless become the first

point of reference in this area for the Union Courts, and it has been relied on in assessing the validity of and interpreting both normative measures and individual decisions (Hofmann, et al., 2011). The Charter has been instrumental in defining substantive rights of staff members, such as the protection of family life or the right to just and fair working conditions, and procedural rights in administrative and judicial proceedings. It has thus contributed to raising the level of fundamental rights protection in EU law, including that governing the relations between institutional employers and their staff (Berry et al., 2013).

From all the cases reviewed in this thesis, it can be evidenced that, the civil service tribunal has been very instrumental in fighting for civil servant's rights and protection. In all the cases, the EU institutions failed to find amicable means to resolve issue disputes that arose between civil servants and their institutions thereby failing to protect their employees and in events where they tried to settle disputes, it resulted in disagreements among the parties involved. So, the courts were the last resort to settle disagreements. It is clear that the European Union civil service tribunal and the general court are ever ready to protect the rights of EU civil servants who resort to them in cases of infringement of rights.

## **8 CONCLUSIONS AND RECOMMENDATIONS**

### **8.1 Conclusion**

Civil servants are the backbone of the European Union institution, without then EU institutions cannot function properly. As stated in the previous chapters, one of the guiding principles of the union is the principle of transparency. However, studies have revealed that EU institutions are not as transparent as stipulated.

The aim of this work was to study and analyse transparency and fairness of European Union institution towards the EU civil servants. The focus was on recruitment and selection procedure of civil servants, traineeship, rights and responsibilities of EU civil servants, their remuneration, redundancy and protection of their rights.

To realise this aim, several relevant literatures were analysed. Aside analysis of the literature, relevant case laws that showed possible discriminations meted out to the civil servants of EU institutions were studied carefully. In all, 20 case laws were analysed, out of which ten (10) were ruled in favour of the applicants, seven (7) against and three (3) dismissed

After thorough analysis of these cases, the research found that, applicant won or lost their disputes with their respective EU institutions with genuine reasons. Based on the analysis of the various cases and the literature reviewed, the following observations have been made;

Firstly, the European union recruitment procedure is not as transparent as stipulated. Six cases were analysed on recruitment, from which one (1) was dismissed and two (2) ruled against the applicants because they did not meet the criteria, and three won against their respective institutions.

The case of the applicants who won against their respective institutions because of their exclusion from the recruitment procedure either without reasons, denied access to documents when requested or excluded by an authority that had insufficient powers shows a clear opacity contrary to the what the EU is thought to be. Though the EU institutions are trying all means possible to ensure implementation of the principle of transparency, It can be realised based on analysed cases that they still have more room for improvement

Secondly, the analysis ascertained that, discrimination of civil servant's rights still exists in the European union institutions as seen in the cases F-89/09 and F-125/15, which showed a clear discrimination based on gender and on nationality.

Again, the research revealed that, the European Union Institutions misinterpret the laws outlined in the staff regulations which they themselves have formulated. Their misinterpretation which geared towards their favour causes infringement on the rights of the civil servants and ends up being unfair to towards their workers.

Finally, the research found that, in most situation based on the analysed cases, the European union institutions turn a blind eye on the plights of their civil servants which turns into a dispute. During such cases, they are usually unable to development amicable ways of conflict resolution. It takes the intervention of the court to ensure the enforcement of the rights of civil servants. Civil servants of EU institutions have developed a level of confidence in the court due to the justice they get when issues are taken to them. Based on these reasons the thesis attests that rights of EU civil servants are protected in the court of law.

## **8.2 Recommendations**

The role of civil service is very imperative in the overall development of a country. They play a very crucial role in the execution and the implementation of their laws

1. Due to lack of attention given to this field of research, there was lack of relevant and supportive documents which indicates that, many of the activities of the EU institutions have been shielded. Fundamental rights of the civil servants of European Union institutions are being trampled upon behind closed doors. This thesis therefore recommends for further research on this field of study, mainly through collection of primary data such as interviews, in order to unveil the true feelings of civil servants in the EU institutions and also to bring to bear the dealings of the EU institutions towards their civil servants.
2. Pertaining to the misinterpretation of the laws outlined in the staff regulations by the EU institutions, the research recommends the formation of an independent body that will oversee the enforcement and correct interpretation of the EU Staff Regulations towards civil servants in the EU institutions. The role of the independent body could be likened to that of European Commission to the EU member states in the correct application of the EU laws, to curb deliberate infringement on the rights of EU civil servants.
3. In order to improve civil service in the EU member states, this thesis recommends that judgement emanating from the CJEU can be transposed into national laws as a form of

regulation or directive. The role of European Commission can also be used as a bench mark in the member states to ensure correct application of these laws so as to bring a form of convergence between EU civil service and that of the member state.

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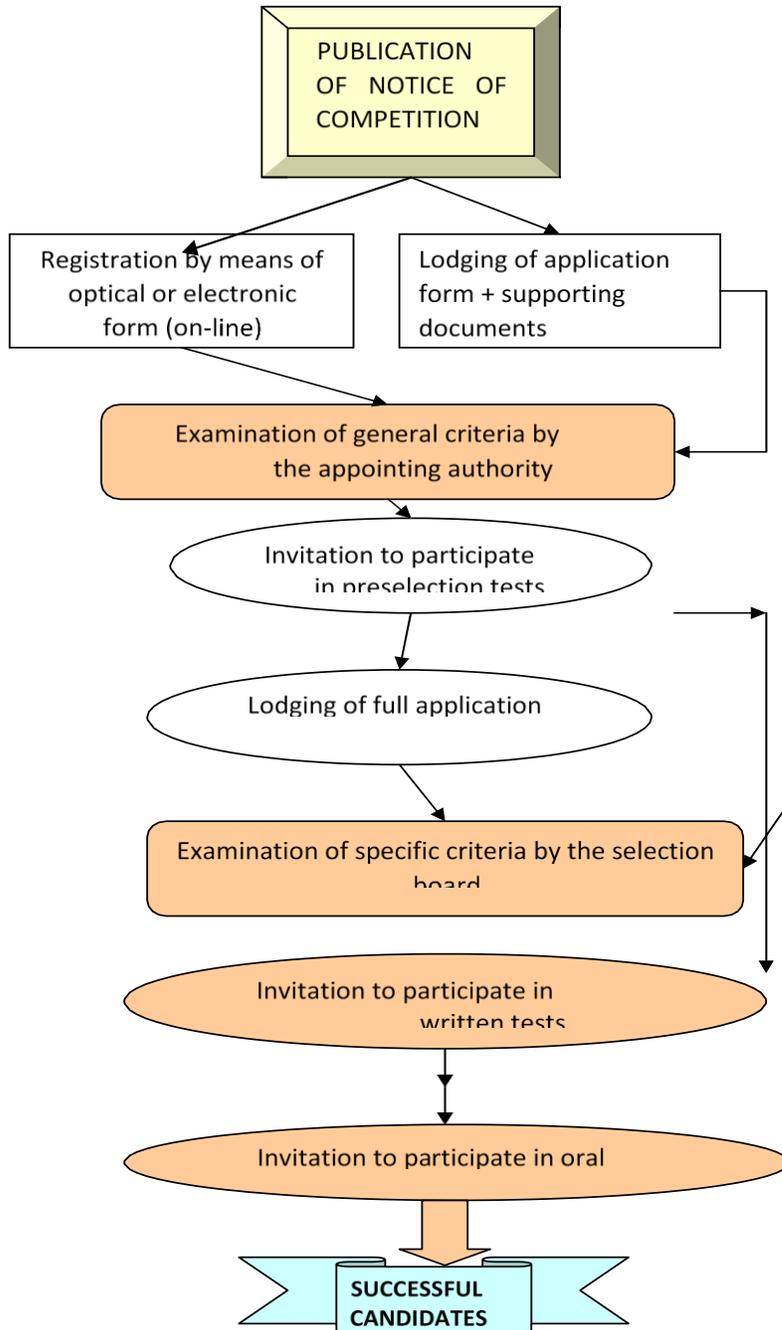
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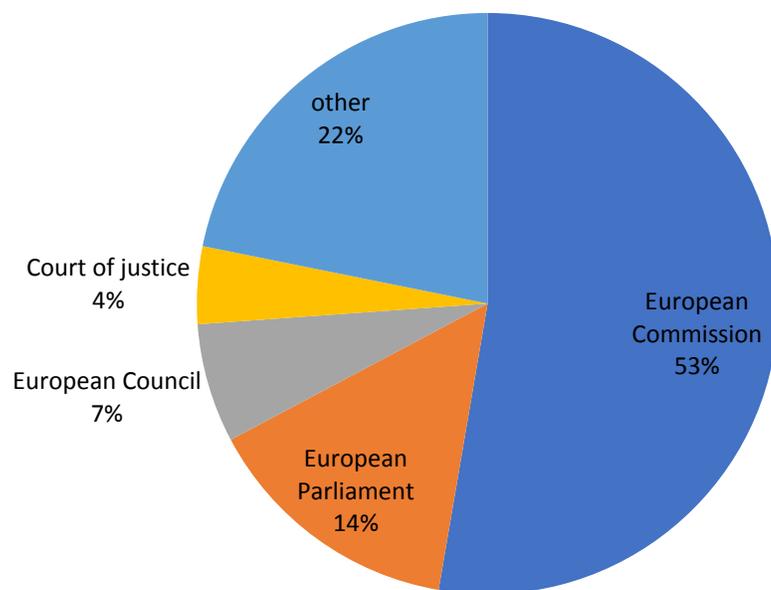
## APPENDICES

### Appendix 1: Recruitment process of civil servants in EU Institutions



Source: Source: Adapted from Van-Biesen (2006, p. 9)

## Appendix 2: EU staff employment figures



Source: EU general budget 2016

### Appendix 3: Staff members of the European Commission

Institutions	2015	2016	2017	2018
EU Commission	24,428	32,966	32,546	32 230
EU Parliament	6739	7606	6000	XXXX
EU Council	3072	3037	3044	XXXX

Source: European Commission HR key figures.

### Appendix 4: Breakdown of Staff members of the European Commission

Function/ category	Numbers	Percentage
Senior Manager	359	11%
Middle Manager	1089	3.3%
Official administrator	11541	35.5
Temporary staff	491	1.5%
Official AST	8685.26	26.7%
Temporary staff	223	0.7%
Temporary staff	207	0.6%
Contract staff	7054	21.7%
Special advisor	61	0.2%
Local staff	2058	6.3
National law	541	1.7
<b>Total</b>	<b>32,546</b>	<b>100%</b>

Source: Adapted from the European Commission HR key figures, 2017

## Appendix 5: EU case laws examined

Case ID	Facts of the case	Court ruling	Remarks
<b>F-61/14</b>	Carola was excluded from the promotion list although she qualified	The court ruled in favour of applicant	The court was rights in its decision because the Commission failed to justify her exclusion from the list
<b>F-51/14</b>	Jaime qualified for promotion but when the promotion list was out, he was excluded	The court ruled in favour of applicant	The institution infringed on the right of the applicant to be promoted although he was due
<b>T158/13</b>	Mr Morello, Mr Bouillez and Karlsson were omitted from the candidates eligible for promotion.	The court ruled in favour of applicant	The court was right because they all met the criteria for promotion.
<b>F-118/15</b>	Mr Kotula was transferred to European Commission and posted to DG “Justice“as director and to DG internal market and services respectively all in the same grade quality	The court dismissed the case	Court findings in the end revealed the Commissions took all criterions into consideration.
<b>F-125/15</b>	Applicant seeks compensation for being	Case was dismissed	Both parties were unable to prove their case

	discriminated based on gender related issues		
<b>F-114/12</b>	Applicants seeks for annulment of the Commission's decision to cancel expatriation allowance	Court ruled against the applicant	Applicant was found to have established habitual residence in Italy.
<b>F-151/12</b>	Applicants seeks annulment of commission's decision to deny him expatriation allowance for internships covered during the reference period in Belgium	Court ruled against the applicant	Applicant was found to have established habitual residence in Italy
<b>F-50/14</b>	Annulment of court decision to cancel expatriation allowance for habitual residency	Court ruling in favour of applicant	Applicant had not established habitual residence in Belgium as claim by the Commission
<b>F-6/12</b>	Annul decision of the commission not to pay expatriation allowance for establishing personal links in Belgium (constant visits)	Ruling was in favour of the applicant	Applicant had moved out of Belgium more than the reference period. His frequent visits to Belgium does not mean he had personal links

<b>F-28/10</b>	Applicant moved, lived all his years in Belgium, seeks for commission's decision not to pay expatriation to be annulled	Ruling against applicant	Applicant has his habitual residence and personal links in Belgium.
<b>F-42/14</b>	Applicant asked to reimburse the commission for taking allowances from other sources	Court Ruled against the applicant	Applicant failed to fulfil the condition to declare other sources of allowances they receive
<b>F-47/15</b>	Applicant seeking for allowance for his wife's children	Court ruled against the applicant	The applicant did not produce any document to the commission to prove his responsibility and maintenance of the children
<b>F-65/12</b>	Applicant seeks for allowance for his wife's children (wife also a staff)	Ruling was in favour of the applicant	When both parents are staff, there is no need to produce supporting document to prove, especially when the child is biological to one parent.
<b>F 86/09</b>	Applicant denied household allowance because it is illegal his home country morocco	Ruling was in favour of the applicant	Applicant is eligible for the allowance because his marriage is recognised in Belgium.
<b>F152/14</b>	Applicant accused EPSO for a misleading instruction for the talent screen test and seeks annulment to not invite	Court ruled against the applicant	Applicant did not read instructions for exam carefully making her leave out her professional experience

	her to sit for the open competition		which was very important
<b>T-696/14</b>	Applicant seeks annulment for not making the reserve list based on education	Ruling against the applicant	His diploma certificate does not meet that of Spanish education, as such, does not meet EU criteria
<b>F 1/14, 35/08</b>	Applicants were dropped from the opened competition	Ruling was in applicant's favour	ESPO failed to fulfil the law of stating reason
<b>F-135/14</b>	Applicant was refused admission to sit for open competition for not meeting the admission requirements	Case was dismissed	Applicant does not meet the education criteria for the job and did not provide evidence strong enough to access his professional experiences
<b>F-35/08</b>	Applicant was dropped from the second stage of the competition	Court ruled in favour of the applicant	Court deemed the applicant's exclusion as unfair as it was done by an authority that did not have sufficient powers to do so.

Source: EU civil service tribunal case laws

**Appendix 6: Basic monthly salaries for each grade and step in the function groups**

<b>1/7/2012</b>	<b>STEP</b>				
<b>GRADE</b>	<b>1</b>	<b>2</b>	<b>3</b>	<b>4</b>	<b>5</b>
<b>16</b>	17 054,40	17 771,05	18 517,81		
<b>15</b>	15 073,24	15 706,64	16 366,65	16 822,00	17 054,40
<b>14</b>	13 322,22	13 882,04	14 465,38	14 867,83	15 073,24
<b>13</b>	11 774,62	12 269,40	12 784,98	13 140,68	13 322,22
<b>12</b>	10 406,80	10 844,10	11 299,79	11 614,16	11 774,62
<b>11</b>	9 197,87	9 584,37	9 987,12	10 264,98	10 406,80
<b>10</b>	8 129,38	8 470,99	8 826,95	9 072,53	9 197,87
<b>9</b>	7 185,01	7 486,94	7 801,55	8 018,60	8 129,38
<b>8</b>	6 350,35	6 617,20	6 895,26	7 087,10	7 185,01
<b>7</b>	5 612,65	5 848,50	6 094,26	6 263,81	6 350,35
<b>6</b>	4 960,64	5 169,10	5 386,31	5 536,16	5 612,65
<b>5</b>	4 384,38	4 568,62	4 760,60	4 893,04	4 960,64
<b>4</b>	3 875,06	4 037,89	4 207,57	4 324,63	4 384,38
<b>3</b>	3 424,90	3 568,82	3 718,79	3 822,25	3 875,06
<b>2</b>	3 027,04	3 154,24	3 286,79	3 378,23	3 424,90
<b>1</b>	2 675,40	2 787,82	2 904,97	2 985,79	3 027,04

**Legend: Salaries in Euros**

Source: Adapted from the (Staff Regulation, 2014, p. 54)