

<p><b>EN</b></p> <p><b>'New rules' staff promotions: intermediate assessment</b></p>
<ul style="list-style-type: none"> <li>● Pursuant to long-standing administrative practice, promotions have been awarded each year '<i>according to the situation on 1 January</i>'; this is the date for assessing whether the conditions for promotion (seniority and threshold) have been met.</li> </ul>
<ul style="list-style-type: none"> <li>● Following reform of the Staff Regulations and in order that the careers of officials <i>recruited under the new rules</i> from 2006 will not be collectively and permanently delayed, our union team proposed the '<i>pro rata temporis</i>' mechanism.</li> </ul>
<ul style="list-style-type: none"> <li>● Under this mechanism, the situation of the eligible candidate is examined not only on 1 January, <i>but also on the first day of each month of the current year</i>.</li> </ul>
<ul style="list-style-type: none"> <li>● In the conclusions of the 2006 consultation (text available on request) the Court agreed to apply this mechanism, albeit on an <b>exceptional</b> basis, <i>reserving itself the right to withdraw it</i>.</li> </ul>
<ul style="list-style-type: none"> <li>● After three years of applying this mechanism (partially and without certainty) and before expiry of the 5-year period, when the Commission has to present its report to the Council (Article 6(4) of the Staff Regs), <b>we must establish</b> the following: <i>what was the actual use of the rates laid down in Annex I(B) to the Staff Regs?</i></li> </ul>
<ul style="list-style-type: none"> <li>● The administration, together with the former Staff Committee, came up with a rather strange definition of the term '<i>starting grades</i>': they considered as '<i>starting grades</i>' not only AST1 and AD5, but also AST3 and AD7! This arrangement was contrived to deprive grades AD6 and AD8 of the benefit of '<i>prorata temporis</i>'.</li> </ul>
<ul style="list-style-type: none"> <li>● In 2008, grades AST1, AST3, AD5 and AD7</li> </ul>

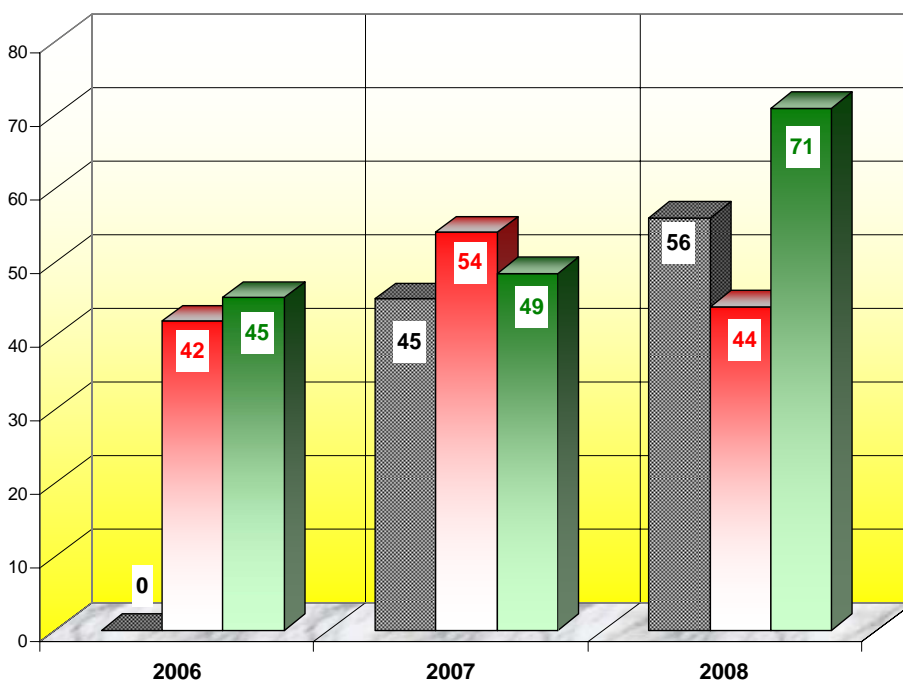
were accorded the 'benefit' of '*prorata temporis*' (see graphs).

● However, Article 6(2) of the Staff Regs creates a *collective right*: subject only to the requirement of reaching a certain level of merit (which, at the Court of Justice, translates into a points' threshold), the guaranteed rates *must* be fully utilised.

● Let us look at the situation, grade by grade:

- What are the *possibilities* for promotion created by Article 6(2) of the Staff Regs;
- how many promotions *were actually awarded* by applying '*prorata temporis*' 'on an exceptional basis';
- how many promotions *would have been made* if '*prorata temporis*' had not been applied at all and the customary rule of '*the situation on 1 January*' had been rigorously kept to.

### promotions de AD 7 vers AD 8



■ hypothèse: nombre de promotions en fonction de "la situation au 1er janvier" **20%**

■ nombre de promotions effectivement accordées en application du pro rata temporis **28%**

■ nombre de possibilités de promotion générées en application de l'art. 6§2 du statut **33%**

● AD 7 to AD 8 : *Despite consistent —and, in the end, correct— application of 'prorata temporis', the number of promotions remained far lower than the possibilities afforded by the simple arithmetic calculation provided for in Article 6 of the Staff Regs. The shortfall in the number of promotions was only 26.*

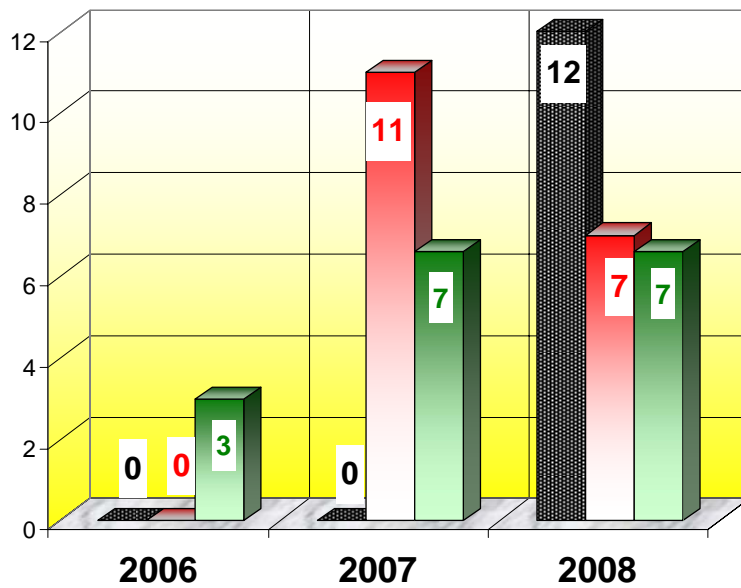
● If the Court had not 'conceded' *prorata temporis* and had limited itself to '*the*

*situation on 1 January*, that shortfall would have been 64!

● Furthermore, *discrimination* would arise *between* those promoted: on the same merits, one official would be promoted in 3 years while another in 3 yrs 11 mths!

● The average waiting period for promotion would have increased from 3 to 3.5 years.

## AD 5 vers AD 6



■ hypothèse: nombre de promotions en fonction de "la situation au 1er janvier" 24%

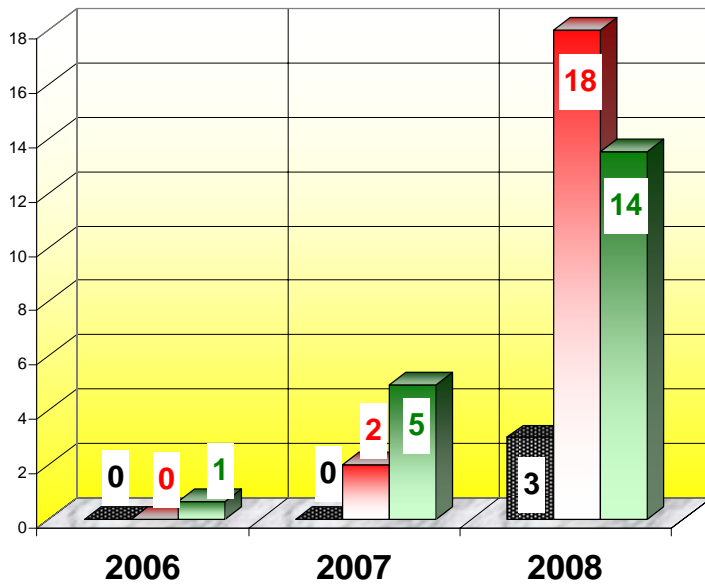
■ nombre de promotions effectivement accordées en application du pro rata temporis 37%

■ nombre de possibilités de promotion générées en application de l'art. 6§2 du statut 33%

● AD5 to AD6: Due to the application of '*prorata temporis*', the number of promotions marginally exceeded the guaranteed rates.

● *Without prorata temporis*, there would have been a shortfall of 4 promotions, giving rise to collective average delay and discrimination between persons promoted. ↑

## AST 3 vers AST 4

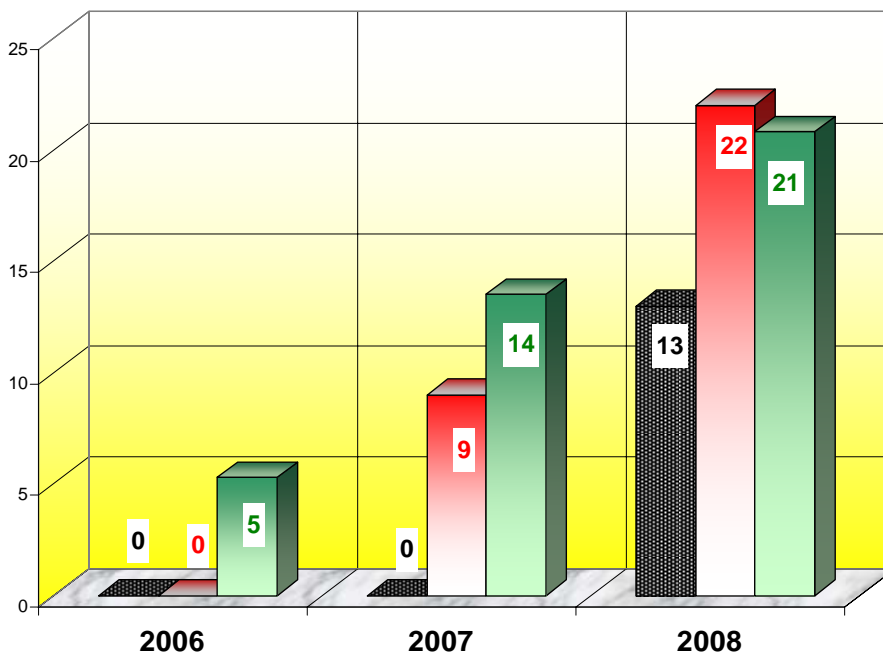


■ hypothèse: nombre de promotions en fonction de "la situation au 1er janvier"	5%
■ nombre de promotions effectivement générées en application du pro rata temporis	34%
■ nombre de possibilités de promotion calculées en application de l'art. 6§2 du statut	33%

● AST3 to AST4: *System balanced.* ↗

● *Without prorata temporis, there would have been a shortfall of 16 promotions!*

## AST1 vers AST2



■ hypothèse: nombre de promotions en fonction de "la situation au 1er janvier"	11%
■ nombre de promotions effectivement accordées en application du pro rata temporis	26%
■ nombre de possibilités de promotion générées en application de l'art. 6§2 du statut	33%

● AST1 to AST2 : *Despite consistent applica-*

tion of '*prorata temporis*', the number of promotions remained far lower than the possibilities afforded by the simple arithmetic calculation provided for in Article 6 of the Staff Regs. The shortfall in the number of promotions was only 9. ⇒

- *Without prorata temporis*, the shortfall in promotions would have been 27!

- **Conclusion:** Of the 4 grades to which *prorata temporis* has been applied, 2 approximately reached the equilibrium. In the other 2 grades, the Court was even able (lawfully) to make savings.

- In other words, *only by making use, in extremis, of an exception were they able to salvage the situation!* In the absence of '*prorata temporis*' the system would have completely collapsed!

- Conversely, officials recruited under the new rules in other grades (AD6) or promoted to AD8 are *unlawfully* harmed by the refusal to apply '*prorata temporis*'.

- No '*prorata temporis*' means that the guaranteed rates are *not* applied, which signifies, in turn, a denial of *career equivalence*. Of course, career equivalence concerns those officials recruited under the new Staff Regs (see Article 6) and not those in transition (Annex XIII).

- For EPSU, *prorata temporis* should become the rule for all officials recruited under the new Staff Regs.