

Case T-63/89

Edward Patrick Latham

v

Commission of the European Communities

(Officials — Staff report — Compensation for damage)

Judgment of the Court of First Instance (Fifth Chamber), 24 January 1991 ..... 21

Summary of the Judgment

1. *Officials — Reports procedure — Staff report — Preparation — Delay — Delay not a basis for annulment*  
(*Staff Regulations, Art. 43*)
2. *Officials — Reports procedure — Staff report — Review by the Court — Limits*  
(*Staff Regulations, Art. 43*)
3. *Officials — Reports procedure — Institution's internal guidelines on the reporting procedure — Legal effects*  
(*Staff Regulations, Arts 43 and 110*)
4. *Officials — Reports procedure — Staff report — Official reassigned during the reference period*  
(*Staff Regulations, Art. 43*)

5. *Officials — Reports procedure — Staff report — Preparation — Delay — Maladministration giving rise to non-material damage (Staff Regulations, Art. 43)*

1. Delay in completing the reporting procedure cannot in any event, of itself, affect the validity of the periodic report or, in consequence, justify the annulment thereof.
  2. Value judgments in respect of officials in staff reports are not open to review by the Court; such review is limited to any irregularities of form, manifest errors of fact vitiating the assessments made by the administration and any misuse of power.
  3. A decision of a Community institution communicated to all its staff and intended to guarantee the officials concerned the same treatment regarding the reporting procedure, such as a guide to staff reports, even though it cannot be regarded as a general implementing provision within the meaning of Article 110 of the Staff Regulations, constitutes an internal directive and must, as such, be regarded as a rule of conduct, indicating the practice to be followed, which the administration imposes on itself and from which it may not depart without specifying the reasons for doing so, since otherwise the principle of equality of treatment would be infringed.
  4. The primary function of the staff report is to provide the administration with periodic information, which is as complete as possible, on the performance of their duties by officials. The staff report cannot truly fulfil that function if the superiors in the other departments in which the official in question discharged his duties during the reference period are not consulted in advance by the assessor and given an opportunity to make any comments. The absence of such consultation constitutes a substantial procedural irregularity of such a kind as to render the staff report invalid.
  5. A delay of more than three years in drawing up a staff report is contrary to the principle of sound administration. Such a delay which is not justified by the existence of special circumstances constitutes maladministration giving rise to non-material damage by reason of the uncertainty and anxiety stemming from the fact that the official's personal file is incomplete and irregular.
- For an official to be deprived of any entitlement to compensation for alleged non-material damage, he himself must have contributed significantly to the delay complained of.