

## Case T-115/92

Anne Hogan  
v  
European Parliament  
(Inadmissibility)

Order of the Court of First Instance (Fifth Chamber), 15 July 1993 ..... II - 897

### Summary of the Order

1. *Officials — Actions — Prior complaint through official channels — Existence of an act adversely affecting an official — Obligation to submit a complaint directly — Time-limits — Matter of public policy*  
(Staff Regulations, Arts 90 and 91)
2. *Officials — Actions — Act adversely affecting an official — Definition — Act directly and immediately affecting the legal situation of the person concerned*  
(Staff Regulations, Arts 90 and 91)
3. *Officials — Actions — Prior complaint through official channels — Distinction in relation to a request within the meaning of Article 90(1) of the Staff Regulations — Distinction a matter for the Court's assessment*  
(Staff Regulations, Art. 90(1) and (2))

1. The time-limits laid down for submitting complaints and bringing actions are a matter of public policy and, even where the administration has replied at the pre-litigation stage to the arguments put forward by the complainant, the Court is not exempted from the obligation to verify whether the action is admissible from the point of view of the observance of time-limits laid down by the Staff Regulations.
3. The categorization of a letter or a memorandum as a 'request' or a 'complaint' is a matter for the Court alone and not for the parties.

An official wishing to seek annulment, amendment or withdrawal of a decision adversely affecting him must submit a complaint directly against that decision, and the right of every official under Article 90(1) of the Staff Regulations to request the administration to take a decision relating to him does not enable him to disregard the time-limits laid down in Articles 90 and 91 of the Staff Regulations for submitting a complaint and bringing an action.

2. A decision which is adopted in response to a request by an official and which shows beyond doubt that the administration intended to refuse the official an allowance under the Staff Regulations by clearly referring to the provisions on which the refusal was based constitutes an act adversely affecting that person in so

far as it directly and immediately affects his legal situation.

A memorandum in which an official clearly manifests an intention to challenge a decision of the administration refusing him an allowance under the Staff Regulations, asks the administration to state the reasons for the decision and seeks precise particulars concerning the calculations used by the administration as a basis for the refusal, constitutes a complaint within the meaning of Article 90(2) of the Staff Regulations. The request for a statement of reasons can be regarded at most as the expression of an allegation that no reasons were given for the decision of refusal and the request for information cannot constitute a separate request for the purposes of Article 90(1) of the Staff Regulations. It is one of the complaints formulated against the decision of refusal, even though, in rejecting the complaint, the administration acknowledged that the request was justified and asked the applicant to contact the relevant authority for the particulars sought.