

Case T-73/89

Giovanni Barbi

v

Commission of the European Communities

(Officials — Belated staff report —
Maladministration — Compensation for material and non-material damage)

Judgment of the Court of First Instance (Fifth Chamber), 8 November 1990 620

Summary of the Judgment

1. *Officials — Reports procedure — Staff report — Drawing up — Delay — Unacceptable — Maladministration giving rise to non-material damage (Staff Regulations, Art. 43)*
2. *Officials — Actions — Purpose — Directions to be issued by the Court to the administration — Inadmissible — Administration ordered to review an official's administrative situation — Possible remedy where the administration has incurred liability — Admissible (Staff Regulations, Art. 91)*

1. A delay of three years in drawing up a staff report is not compatible with the principle of sound administration. Neither the absence of a director nor the reorganization of a department can justify such disregard of the time-limit laid down by the general implementing provisions adopted by the defendant institution regarding the preparation of staff reports.

Such a delay constitutes maladministration which causes non-material

damage to the official concerned as a result of the uncertain and anxious state of mind in which he is placed by the fact that his personal file is irregular and incomplete.

2. In an action for annulment, the Court cannot, without encroaching on the prerogatives of the administrative authority, order a Community institution to take the measures necessary for the enforcement of a judgment by which a decision is annulled.

On the other hand, a request by an official that the administration be ordered in general terms to review his administrative situation must be considered admissible in an action in which the Court enjoys unlimited jurisdiction provided that, without the

discretion which must be available to the appointing authority thereby being affected, such a measure appears to be designed to ensure that any reparation of the damage allegedly suffered as a result of the late preparation of the staff report is appropriate.

JUDGMENT OF THE COURT OF FIRST INSTANCE (Fifth Chamber)
8 November 1990 *

In Case T-73/89,

Giovanni Barbi, a member of the scientific staff of the Commission of the European Communities, residing in Varese (Italy), represented by Giuseppe Marchesini, avvocato with the right of audience before the Corte di Cassazione of the Italian Republic, with an address for service in Luxembourg at the Chambers of Ernest Arendt, 4 avenue Marie-Thérèse,

applicant,

v

Commission of the European Communities, represented by Sergio Fabro, a member of its Legal Department, acting as Agent, with an address for service in Luxembourg at the office of Guido Berardis, also a member of the Commission's Legal Department, Wagner Centre, Kirchberg,

defendant,

APPLICATION for compensation for the material and non-material damage allegedly suffered by the applicant,

* Language of the case: Italian.