

Case T-27/90

Edward Patrick Latham

v

Commission of the European Communities

(Officials — Admissibility — Recruitment procedure under Article 29(1)(a) of the Staff Regulations — Staff report — Delay — Compensation for damage)

Judgment of the Court of First Instance (Fifth Chamber), 24 January 1991 36

Summary of the Judgment

1. *Officials — Actions — Act adversely affecting an official — Preparatory act — Opinion of an advisory body — Inadmissibility*
(*Staff Regulations, Arts 90 and 91*)
2. *Officials — Decision adversely affecting an official — Procedures for notification do not affect their legality*
3. *Officials — Actions — Action comprising a claim for annulment and a claim for compensation — Claims based on separate grounds — Claims to be treated independently as regards admissibility*
(*Staff Regulations, Arts 90 and 91*)
4. *Officials — Reports procedure — Staff report — Preparation — Delay — Maladministration causing non-material damage*
(*Staff Regulations, Art 43*)

1. Preparatory acts, such as an opinion of an advisory committee on appointments which acts merely in an advisory capacity, cannot, even if they are the only acts of which the applicant claims to have notice, be the subject of an action. Only in an action brought against the decision adopted on conclusion of the procedure may the applicant contest the regularity of previous acts which are closely linked with that decision.
 2. The procedures for notification of decisions are not, in principle, of such a kind as to affect the legality of the decisions in question.
 3. Where an official brings an action for the annulment of an act of an institution and for compensation for damage caused otherwise than by the contested act, the claims are not closely linked with each other, so that the inadmissibility of the claim for annulment does not render the claim for compensation inadmissible.
 4. A delay of some 17 months in drawing up a staff report is contrary to the principle of sound administration. Such a delay, if not justified by the existence of special circumstances, constitutes maladministration giving rise to non-material damage by reason of the uncertainty and anxiety arising 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 the alleged non-material damage, he himself must have contributed significantly to the delay complained of.

JUDGMENT OF THE COURT OF FIRST INSTANCE (Fifth Chamber)
24 January 1991 *

In Case T-27/90,

Edward Patrick Latham, an official of the Commission of the European Communities, residing at Wezembeek-Oppem (Belgium), represented by Georges Vandersanden, of the Brussels Bar, with an address for service in Luxembourg at the Chambers of Alex Schmitt, 62 avenue Guillaume,

applicant,

* Language of the case: French.