

Case T-108/89

Hans Scheuer

v

Commission of the European Communities

(Official — Transfer of all subordinates —
Downgrading — Interest of the service —
Misuse of powers)

Judgment of the Court of First Instance (Fourth Chamber), 12 July 1990 413

Summary of the Judgment

1. *Officials — Actions — Act adversely affecting an official — Criteria — Withdrawal from an official of one or more of the departments for which he was responsible — Infringement of his rights under the Staff Regulations*
(Staff Regulations, Art. 91)
2. *Officials — Organization of departments — Assignment of staff — Administration's discretion — Limits — Interest of the service — Regard for equivalence of posts*
3. *Officials — Organization of departments — Administration's discretion — Official's rights under the Staff Regulations — Equal treatment — Correspondence between grade and post — Criteria — Number and status of the official's subordinates — Irrelevant*
(Staff Regulations, Arts 5 and 7)
4. *Officials — Actions — Submissions — Misuse of powers — Concept*

1. Although the higher authority alone is responsible for the organization of departments, which it must be able to determine and modify according to their needs, withdrawing from an official one or more of the departments for which he was previously responsible may in certain circumstances adversely affect his rights under the Staff Regulations and therefore constitute a measure adversely affecting him.

2. The Community institutions have a broad discretion to organize their departments to suit the tasks entrusted to them and to assign staff available to them in the light of such tasks, on condition, however, that the staff are assigned in the interests of the service and in conformity with the principle of assignment to an equivalent post. Such discretion is indispensable in order to achieve effective organization of work and to adapt that organization to varying needs.

3. The conditions of service career referred to in Article 5 of the Staff Regulations cannot be considered outside the framework determined by the organization of the departments. Although that provision requires the administration to give officials equal treatment, in the various categories, it does not restrict the freedom of the institutions to organize the various administrative units taking account of a whole range of factors, such as the nature and scope of the tasks which are assigned to them and the budgetary possibilities.

For a measure connected with the reorganization of a department to affect adversely the right of an official under Articles 5 and 7 of the Staff Regulations to be allocated duties compatible as a whole with the corresponding post which he has, it is not sufficient that it should bring about a change or even a reduction in responsibilities, but it is necessary that, taken together, his remaining responsibilities should fall clearly short of those corresponding to his grade and post, taking account of their character, their importance and their scope.

In particular, it is impossible to find in the Staff Regulations anything to support the argument that the grade to which an official is appointed depends upon the number and status of his subordinates.

4. The concept of misuse of powers refers to cases where an administrative authority has used its powers for a purpose other than that for which they were conferred on it.

A decision may amount to a misuse of powers only if it appears, on the basis of objective, relevant and consistent evidence, to have been taken for purposes other than those stated.