

JUDGMENT OF THE COURT OF FIRST INSTANCE (Fourth Chamber)
30 September 2003

Case T-296/01

Antonio Tatti
v
Commission of the European Communities

(Community officials – Staff report – Delay –
Irregularities in reporting procedure –
Action for annulment – Action for damages)

Full text in French II - 1093

Application for: first, annulment of the decision adopting the applicant's definitive staff report for the period 1 July 1995 to 30 June 1997 and, second, for damages.

Held: The decision adopting the applicant's definitive staff report for the period 1 July 1995 to 30 June 1997 is annulled. The Commission is ordered to pay the applicant EUR 1 500 by way of compensation for non-material damage. The Commission is ordered to pay the costs.

Summary

*1. Officials – Reports procedure – Institution’s internal guidelines on the reporting procedure – Legal effects
(Staff Regulations, Arts 43 and 110)*

*2. Officials – Reports procedure – Staff report – Drawing up – Rule adopted by the department concerned setting a maximum number of points and an average – Interference with the assessor’s freedom of judgment
(Staff Regulations, Art. 43)*

*3. Officials – Reports procedure – Staff report – Drawing up – Delay – Inadmissibility – Administrative fault causing non-material damage – Requirement – Official not responsible for the delay
(Staff Regulations, Art. 43)*

1. 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, 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.

(see para. 43)

See: 190/82 *Blomefield v Commission* [1983] ECR 3981, para. 20; T-63/89 *Latham v Commission* [1991] ECR II-19, para. 25

2. A rule adopted by a department and regarded by the assessor as binding, which sets out, in a departure from the guide to the reporting procedure in force, a specified maximum number of points and an average, interferes with the assessor's freedom of judgment in assessing an official's performance.

(see para. 49)

3. The administration must ensure that staff reports are drawn up periodically on the dates laid down by the Staff Regulations and that they are drawn up in a proper form, both for reasons of sound administration and in order to safeguard the interests of officials. A delay in the drawing up of a staff report may in itself be prejudicial to the official for the simple reason that his career progress may be affected by the absence of such a report at a time when decisions concerning him must be taken. An official in possession of an irregular and incomplete personal file thereby suffers non-material damage as a result of being put in an uncertain and anxious state of mind with regard to his professional future. In the absence of special circumstances justifying the delays found to have occurred, therefore, the administration commits an administrative fault giving rise to liability on its part.

On the other hand, an official cannot complain of delay in the drawing up of his periodic report when that delay is attributable to him, if only partially, or where he contributed considerably to the delay. However, the mere fact that the official has, during the reporting procedure, made use of the opportunity available under the relevant rules in force to refer his case to various bodies authorised to intervene in the procedure does not mean that the official is, to any significant extent, responsible for a delay.

(see paras 58-65)

See: 156/79 and 51/80 *Grateau v Commission* [1980] ECR 3943, para. 15; 173/82, 157/83 and 186/84 *Castille v Commission* [1986] ECR 497, para. 36; T-73/89 *Barbi v*

Commission [1990] ECR II-619, para. 41; T-20/89 *Moritz v Commission* [1993] ECR II-1423, para. 50; T-59/96 *Burban v Parliament* [1997] ECR-SC I-A-109 and II-331, paras 44 and 50; T-187/01 *Mellone v Commission* [2002] ECR-SC I-A-81 and II-389, paras 77, 78 and 79