

Case T-128/89
(Summary publication)

Christian Brumter
v
Council of the European Communities

(Official — Promotion of an official on secondment —
Consideration of comparative merits — Institution of a
consultative procedure — Appointing authority's discretion)

Summary of the Judgment

1. *Officials — Promotion — Consideration of comparative merits — Decision of an internal nature providing that a consultative procedure not prescribed by the Staff Regulations should take place — Compulsory nature of the consultation (Staff Regulations of Officials, Art. 45)*
 2. *Officials — Promotion — Administration's discretion — Judicial review — Limits (Staff Regulations of Officials, Art. 45)*
 3. *Officials — Actions — Submissions — Misuse of powers — Concept*
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1. When, by a decision of an internal nature, the appointing authority voluntarily institutes a compulsory consultative procedure which is not prescribed by the Staff Regulations, it is obliged to observe that procedure, which cannot be regarded as having no legal significance (see the judgment in Case 282/81 *Ragusa v Commission* [1983] ECR 1245).
 2. The appointing authority has wide discretion as regards promotions, and judicial review must be restricted to examining whether, regard being had to the various considerations which may have influenced the administration in

making its assessment, the latter has remained within reasonable limits and has not used its power in a manifestly incorrect way (see the judgment in Case 111/86 *Delauche v Commission* [1987] ECR 5345).

3. It is established case-law that a decision is vitiated by 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.

JUDGMENT OF THE COURT OF FIRST INSTANCE (Fourth Chamber)
16 October 1990 *

In Case T-128/89,

Christian Brumter, a former official of the Council, an official of the Commission of the European Communities, residing in Brussels, represented by Jean-Pierre Spitzer, of the Paris Bar, with an address for service in Luxembourg at the Chambers of Aloyse May, 31 Grand-Rue,

applicant,

v

Council of the European Communities, represented by Gijs Peeters, Adviser in its Legal Department, acting as Agent, with an address for service in Luxembourg at the office of Jörg Käser, Manager of the Legal Directorate of the European Investment Bank, 100 boulevard Konrad-Adenauer,

defendant,

APPLICATION for the annulment of the decision of 25 November 1988 of the Secretary-General of the Council of the European Communities promoting eight officials to Grade A 5,

* Language of the case: French.