

JUDGMENT OF THE COURT OF FIRST INSTANCE (Single Judge)
23 October 2003

Case T-25/02

Michel Sautelet
v
Commission of the European Communities

(Officials – Staff report –
Late preparation – Action for damages)

Full text in French II - 1255

Application for:

first, annulment of the Commission's decisions partially rejecting the applicant's complaints seeking damages to compensate him for the non-material damage caused by the delay in the preparation of the staff reports concerning him for the periods 1993/1995, 1995/1997 and 1997/1999 and, secondly, for damages to compensate him for that non-material damage.

Held: The Commission is ordered to pay the applicant the sum of EUR 3 000, in addition to the sum of EUR 1 500 already awarded by the Appointing Authority. The remainder of the action is dismissed. The Commission is ordered to pay the costs.

Summary

*1. Officials – Actions – Action for damages – Claim for annulment of a pre-litigation decision refusing a request for compensation – Claim cannot be assessed in isolation from claims for compensation
(Staff Regulations, Arts 90 and 91)*

*2. Officials – Reports procedure – Staff report – Drawing up – Delay – Breach of administrative duty giving rise to non-material damage – Delay partly attributable to the official
(Staff Regulations, Art. 43)*

1. An institution's decision rejecting a claim for compensation forms an integral part of the preliminary administrative procedure which precedes an action to establish liability before the Court of First Instance.

Consequently, claims for annulment of that rejection brought by the official cannot be assessed in isolation from the claims relating to liability. The measure setting out the position adopted by the institution during the pre-litigation stage only has the effect of allowing the party who has suffered damage to apply to the Court for compensation.

(see para. 45)

See: T-90/95 *Gill v Commission* [1997] ECR-SC I-A-471 and II-1231, para. 45; T-77/99 *Ojha v Commission* [2001] ECR-SC I-A-61 and II-293, para. 68; T-209/99 *Hoyer v Commission* [2002] ECR-SC I-A-243 and II-1211, para. 32

2. 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, the administration commits an administrative fault giving rise to liability on its part.

However, an official cannot complain of the delay in drawing up his periodic report where the delay is attributable to him, at least in part, or where he contributed considerably to the delay.

(see paras 71-73)

See: 156/79 and 51/80 *Gratreau 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