

res' (auxiliaries) and 'experts' (experts) of the Language Service, they had indeed some hope of being taken on permanently after the period of organization. But there can be no question of any certainty which would form a basis for a legal remedy. The proceedings in this case have not yielded any material in support of the applicants'

claims on this subject.

Assuming that the Court upholds my proposal that the decision of dismissal be annulled in the case of the applicant Fidde-laar, it is superfluous to examine any further the claims for damages, which are only of a secondary nature.

V — Summary and results

Summarizing what I have said, I am of the opinion that the Court should:

reject the applications in Cases 43/59 and 48/59 as unfounded;

as to Case 44/59:

- (a) declare that the decision of dismissal of 24 July, and finalized by the decisions of 14 August and 29 September 1959, was of no effect;
- (b) reject the conclusions claiming a ruling.

As to costs, Article 70 of the Rules of Procedure must be applied so far as the applications are rejected. As to Case 44/59, I suggest that you order that all costs and expenses be borne by the defendant in accordance with Article 69 (2) and (3) of the Rules of Procedure.

ORDER OF THE PRESIDENT OF THE COURT 20 OCTOBER 1959¹

In Joined Cases 43/59, 44/59 and 48/59

In Case 43/59

MISS EVA VON LACHMÜLLER, legally domiciled at Bressanone (Bolzano), residing in Brussels, represented and assisted by Marc-Antoine Pierson, Advocate at the Cour d'Appel, Brussels, with an address for service in Luxembourg at the Chambers of Paul Beghin, 9 avenue de la Gare,

and in Case 44/59

¹ — Language of the Case: French.

MR RUDOLF PIETER MARIA FIDDELAAR, domiciled at Woluwe-Saint-Pierre, Bruxelles, represented and assisted by Marcel Slusny, Advocate at the Cour d'Appel, Brussels, with an address for service in Luxembourg at the Chambers of Emile Poos, 9 rue de Nassau,

and in Case 45/59

MR BERNARD PEUVRIER, domiciled at Brussels,

represented and assisted by Jean Nadd, Advocate of the Paris Bar, with an address for service in Luxembourg at the Chambers of Georges Margue, 6 rue Alphonse Munchen,

applicants,

v

COMMISSION OF THE EUROPEAN ECONOMIC COMMUNITY represented and assisted by its Legal Adviser Paul Leleux, acting as Agent, with an address for service in Luxembourg at the office of Robert Fischer, Secretary of the Joint Legal Service of European Executives,

defendant,

THE PRESIDENT OF THE COURT OF JUSTICE OF THE EUROPEAN COMMUNITIES makes the following

ORDER

The cases mentioned above have been joined for the purposes of a ruling on an interim measure, by decision of the President at the hearing, upon hearing the parties.

The applicants, by applications lodged at the Court Registry on 4 and 28 September 1959, have brought applications for the annulment of the decisions of the Commission of the European Economic Community dated 24 February 1959, whereby the said Commission dispensed with their services with effect from 31 August 1959.

That period of notice was later extended by the Commission to 31 October of that year.

The applicants, by applications lodged at the Court Registry on 4 and 28 September 1959, have brought applications for the annulment of the decisions of the Commission of the European Economic Community dated 24 February 1959, whereby the said Commission dispensed with their services with effect from 31 August 1959.

That period of notice was later extended by the Commission to 31 October of that year.

The applicants, on the same dates, lodged applications in which they claim that the Court should stay the execution of the contested decisions until judgment in the main action has been delivered.

On 10 October 1959, the defendant lodged its observations on the applications for an interim measure, in which it contends that the Court should reject the claims for a suspensory measure introduced by the applicants.

The parties, having been fully summoned, appeared before the President on 19 October 1959 and submitted their oral observations.

They stood by their conclusions.

LAW

The defendant has raised the question whether the Court has jurisdiction to pass judgment on disputes between the Community and its servants, despite the fact that the Staff Regulations mentioned in Article 179 of the EEC Treaty have not yet been laid down.

Since this is a question of public policy, it is necessary to take it first.

Unlike the provisions contained in the ECSC Treaty, Article 173 of the EEC Treaty, which makes provision for applications for annulment, is drafted in such a way that it also applies to officials and gives them the right to bring actions against decisions concerning them.

In these circumstances, Article 179 cannot be interpreted otherwise than as empowering the authors of the Staff Regulations to restrict or extend the limits and conditions generally laid down for application before a court, such as, for example, setting time-limits within which applications must be brought, allowing, in specified cases, applications involving the exercise of the unlimited jurisdiction of the Court, etc.

The defendant has contested the argument of the applicants to the effect that to carry out the decisions in question would bring about irreparable or at least serious loss, and it asserts that should the application be declared well-founded, the said applicants would receive the entirety of what would be due to them, calculated with effect from the date of their dismissal.

However, there should be taken into account the fact that the emoluments of the applicants are necessary for their support and that, should the regular payment of the said emoluments be interrupted, irreparable consequences could result from the interruption both for themselves and for their families inasmuch as the applicants have no other means of support.

The applicant Von Lachmüller is an official of the High Authority of the ECSC. As an official of that body, she is on leave on personal grounds. Accordingly, she is in a position to take up her former duties again.

Although the claim for a suspensory measure on the part of the applicant Von Lachmüller must therefore be rejected, the circumstance mentioned by the two other applicants in support of their respective claims would appear to indicate that irreparable loss might occur.

There is no possibility of the applicants Fiddelaar and Peuvrier obtaining other work, and they seem, therefore, to be without resources at the moment.

In order not to grant a suspensory measure which would only be a mere prolongation of the period of notice, it should be clearly apparent that there exists a strong presumption that the application in the main action is well-founded (*fumus boni juris*).

It appears from the documents produced by the applicants, and from the oral arguments at the hearing on the application for an interim measure, that, at most, the applicants are to be considered as auxiliary staff and that, therefore, even if the ECSC conditions are applied to their case, which according to them is what should happen, the soundness of their application is not in substance thereby rendered manifest.

Therefore, the claims for a suspensory measure on the part of the applicants Fiddelaar and Peuvrier must also be rejected.

Having regard to Articles 185 and 186 of the Treaty establishing the European Economic Community, and to Articles 83, 84, 85 and 86 of the Rules of Procedure,

- 1. The claims are rejected;**
- 2. The costs are reserved.**

Luxembourg, 20 October 1959.

A. Van Houtte
Registrar

A. M. Donner
President.