

ORDER OF THE PRESIDENT OF THE COURT
20 OCTOBER 1959

In Joined Cases 43, 44 and 45/59 (see page 489)

ORDER OF THE PRESIDENT OF THE COURT
1 OCTOBER 1960¹

In Case 44/59

RUDOLF PIETER MARIE FIDDELAAR, residing at Woluwé-Saint-Pierre (Brussels),
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,

applicant,

v

COMMISSION OF THE EUROPEAN ECONOMIC COMMUNITY,

represented and assisted by its Legal Adviser, Paul Leveux, acting as Agent, with
an address for service in Luxembourg at the office of Mr Manzanarès, Secretary
of the Joint Legal Service of the European Executives, 2 place de Metz,

defendant,

The President of the Court of Justice of the European Communities makes the
following order:

By application received at the Registry on 1 October 1960 the applicant claimed
that the Court should:

Order the Commission of the European Economic Community to pay to the ap-
plicant as an advance on arrears of allowances or salary the sum of FB 100000 or
2000 u.a. or such other sum as in equity may be determined;

Reserve the costs.

¹ - Language of the Case: French.

In support of this application the applicant has declared:

'It follows that, in contrast to the judgment delivered by the Court in the Joined Cases 43/59, 45/59 and 48/59 (*Eva von Lachmüller, Bernhard Peuvrier and Roger Ehrhardt v the Commission of the European Community*), this is an interim order and, if in the event, the Court were not to annul the contested decision as a misuse of powers, it would nevertheless award to the applicant very much heavier damages than those awarded to the applicants in Joined Cases 43/59, 45/59 and 48/59, who found fresh employment immediately after their discharge and, unlike the applicant, were not forty-six years of age and, unlike him, did not have substantial family responsibilities since the applicant is married and has four children.

Since he left the Commission he has been unemployed except for occasional translations for certain journals.

'He is in a deplorable financial position and is obliged to live at the home of his sister, while his wife and children live with his parents-in-law'.

The President has this day, 1 October 1960, heard the defendant which through its agent, Mr P. Leleux, has stated that the application does not appear to it to be in principle devoid of foundation but that it considers that any sum which may be awarded to the applicant ought not to exceed FB 60000 the sum which was granted to the applicants in Joined Cases 43/59, 45/59 and 48/59.

LAW

There can be no doubt that the applicant is in a very serious financial position and there seems to be a corresponding need for financial assistance;

In its judgment of 15 July 1960 in Cases 43/59, 45/59 and 48/59, the Court ordered the defendant to pay to the applicants damages of FB 60000 on grounds which, as the defendant expressly accepts, are at least as valid in the case of the applicant, with the result that the latter can reasonably expect to receive comparable damages.

Even if in the main action the Court annulled the discharge of the applicant, in which case there would be no question of ordering the defendant to pay damages, the Commission would be obliged to pay to the applicant emoluments which he would normally have received and the total of his emoluments would be considerably in excess of the sum FB 60000.

It has not been established that the present financial position of the applicant requires payment of the whole of the damages claimed and the President regards damages of FB 60000 as enough to cover the applicant's immediate needs.

In consequence, the President upholds the application to the extent of FB 60000.

There has not been on the part of the defendant any request that the applicant should lodge any security or provide a guarantor and, subject to the reservations indicated above, it is not opposed to the grant of the application;

Having regard to Article 186 of the EEC Treaty and Articles 83, 85 and 86 of the Rules of Procedure,

- 1. The Commission of the European Community shall make to the applicant an interim payment of FB 60000;**
- 2. Costs are reserved.**

Luxembourg, 1 October 1960.

H. J. Eversen
Assistant Registrar

A. M. Donner
President