

ORDER OF THE PRESIDENT OF THE SECOND CHAMBER  
OF THE COURT  
OF 10 MARCH 1978 <sup>1</sup>

**Xavier Authié**  
**v Commission of the European Communities**

Case 19/78 R

In Case 19/78 R,

XAVIER AUTHIÉ, represented by Marcel Slusny, of the Brussels Bar, with an address for service in Luxembourg at the Chambers of Françoise Faber, 51 Avenue de la Liberté,

applicant,

v

COMMISSION OF THE EUROPEAN COMMUNITIES, represented by its Legal Adviser, Raymond Baeyens, acting as Agent, with an address for service in Luxembourg at the office of its Legal Adviser, Mario Cervino, Jean Monnet Building, Kirchberg,

defendant,

THE PRESIDENT OF THE SECOND CHAMBER OF THE COURT OF JUSTICE OF THE EUROPEAN COMMUNITIES

makes the following

**ORDER**

**Facts and Issues**

On 22 February 1978 the applicant brought an action for the annulment of the refusal by the Selection Board for Competition No COM/A/154 to admit him to that competition, which the Commission of the European Communities had organized in order to draw up a reserve list for the future re-

cruitment of administrators in Grades 7 and 6 of Category A (see Notice of Competition in Official Journal C 213 of 7 September 1977, p. 9).

The reason given by the Selection Board for its refusal was that the applicant's qualifications had been

<sup>1</sup> — Language of the Case: French.

found not to be consistent with those required. The applicant argued that the Selection Board was in breach of the principle of equality in that certain other candidates who, like him, had studied economics at university and, also like him, possessed the Certificate of Advanced European Studies awarded by the College of Europe for their part had been admitted to the competition.

The applicant also raised points concerning the procedure applied by the Selection Board, in particular the absence of any previous directive on the eligibility of candidates.

Referring to the competition, the applicant made an interlocutory application on the same day for the adoption of an interim measure under Article 83 *et seq.* of the Rules of

Procedure to suspend proceedings in Competition No COM/A/154, the written tests for which took place on 16 and 17 January 1978 and the oral tests for which are to take place shortly.

In a statement dated 28 February 1978 the defendant, the Commission, contended that the application for the adoption of an interim measure should be dismissed on the ground that there were no circumstances such as to establish a *prima facie* case for the measures applied for.

Having been duly summoned, the parties appeared on 10 March 1978 before the President of the Second Chamber and submitted their observations.

## Decision

- 1 Under Article 83 (2) of the Rules of Procedure of the Court, suspension of operation is conditional upon the existence of circumstances giving rise to urgency and grounds establishing a *prima facie* case for such a measure.
- 2 The applicant has pleaded that the refusal to admit him to the competition is *prima facie* unjustified.
- 3 In support of that plea he has repeated the same grounds as those invoked in the main action.
- 4 At this stage in the proceedings the Court's final decision on those issues cannot be prejudged.
- 5 In order to justify the urgency of his application for the adoption of an interim measure, the applicant has stated that if he succeeded on the substance of the case, all the proceedings in the competition would have to be begun afresh, and that therefore it was preferable to suspend those

proceedings and not go on with the oral tests before the Court has given judgment on the substance of the case.

- 6 Although the applicant has emphasized his interest in being admitted to the competition, he has not however shown in what respect the continuance of proceedings in the competition would cause him irreparable damage.
- 7 On the most favourable view for the applicant of the decision to be taken on the substance of the case and even assuming that his application for the adoption of an interim measure is granted, suspension of the proceedings at the stage which has now been reached would not dispense with the need to repeat the written tests, which have already taken place.
- 8 Furthermore, suspension of the oral tests would cause considerable inconvenience and serious harm both to the Commission and to the many candidates who have taken the written tests.
- 9 In the light of these circumstances it must be concluded that the conditions for the grant of the interlocutory measure sought have not been fulfilled and that the application must accordingly be dismissed.

#### Costs

- 10 In the circumstances costs should be reserved.

On those grounds,

THE PRESIDENT OF THE SECOND CHAMBER

by way of interlocutory decision,

hereby orders as follows:

1. The application is dismissed.

**2. Costs are reserved.**

Luxembourg, 10 March 1978.

**M. Petersen**  
(Legal Secretary)  
Acting Registrar

**M. Sørensen**  
President of the Second Chamber