permanent employment and carries entitlement to the future benefits of the Staff Regulations is prohibited by virtue of Article 246 (3) of the EEC Treaty. The case-law of the ECSC Court of Justice, which has accepted that servants of the ECSC employed prior to the promulgation of the Staff Regulations have an entitlement to future employment thereunder, is of no avail on this point because the last paragraph of Article 7 of the Convention on the Transitional Provisions does not require that all contracts of employment shall be of limited duration.

5. Although the contracts at issue were nevertheless concluded for a period of unlimited duration, that is to be explained by the fact that at the time when they were concluded it was impossible to enter into contracts of limited duration provided for by Article 246 (3) of the Treaty, because at that time the permanent needs of each service of the Commission were not sufficiently foreseeable. The contracts at issue, which thus constituted a phase pending the conclusion of contracts provided for by Article 246 (3) of the Treaty, can on no account imply that there was a common intention between the parties to enter into the legal relationship of a contract of permanent employment, for such an intention is manifestly contrary to the principle set out in the said Article 246 (3).

6. Observance of the principle of good faith requires that decisions of dismissal terminating a contract of employment must be justified on grounds relevant to the interests of the service and there must be nothing arbitrary about them. Failure to state such grounds constitutes a breach of contract for which the administration is liable. The fact that the officials wrongfully dismissed have returned to posts formerly held by them or found new posts is no bar to their being awarded compensation for non-material damage caused by the wrongful act on the part of the administration.

7. The reasons appertaining to the public interest in justification for an administrative measure must be stated with clarity and in such a way that they may be disputed for otherwise the official concerned would have no means of knowing whether his legal rights had been respected or infringed and furthermore any review of the legality of the decision would be hampered.

In Joined Cases 43/59 and 48/59 brought respectively by

MISS EVA VON LACHMÜLLER and MR ROGER EHRHARDT, 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,

45/59 brought by

MR BERNARD PEUVRIER, represented and assisted by Jean Nadd, Advocate at 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 by Paul

Leleux, Legal Adviser to the European Executives, acting as Agent, with an address for service in Luxembourg at the office of Robert Fischer, Secretary of the Legal Service of the European Executives, 2 place de Metz,

defendant,

Application

as regards Cases 43/59 and 48/59,

for the annulment of the decisions of the Commission of the European Economic Community whereby the latter dismissed the applicants on one month's notice and thereafter extended the expiry of that notice by one month,

payment of damages,

as regards Case 45/59,

for payment of damages

THE COURT

composed of: A. M. Donner, President, L. Delvaux President of Chamber, R. Rossi (President of Chamber and Judge-Rapporteur), O. Riese and Ch. L. Hammes, Judges,

Advocate-General: K. Roemer
Registrar: A. Van Houtte

gives the following

JUDGMENT

Issues of fact and of law

I — Conclusions of the parties

The *applicant in Case* 43/59, having abandoned, in her reply, her claim that the Court should: 'rule that the applicant has the grade corresponding to the post of translator', claims that the Court should:

Declare the application admissible;

Declare that it is well-founded;

Accordingly:

In the first place:

annul the decision whereby the opposite party dismissed the applicant, which decision was notified to her on 25 July 1959 and

completed by decisions of 18 August and 29 September;

rule that the applicant was engaged by the defendant on 13 September 1958 as a translator;

rule that the engagement of the applicant created the legal relationship of a contract of employment under public law as between herself and the defendant;

rule that the said engagement was for an unlimited period and could only be brought to an end by resignation, retirement in the interests of the service, dismissal for incompetence, removal from post or retirement;

Alternatively

rule that the defendant has committed a wrongful act not only in dismissing the applicant in the circumstances of the case but also in employing her in its service thereby giving her the reasonable expectation that she would be employed on a permanent basis;

rule that, even if there be no wrongful act on the part of the defendant, the applicant had a reasonable expectation at law that in the circumstances of the case her employment would be continued;

accordingly, in either case, rule that the applicant is entitled to compensation equal to three years emoluments, and order the defendant to pay the same to her;

As a further alternative

should the Court decide that the engagement of the applicant created the legal relationship of a contract of service:

rule that she is entitled to compensation equal to three years' emoluments and order the defendant to pay the same to her;

order the defendant, in addition, to bear the costs.

The *applicant in Case 48/59* having withdrawn, in his reply, his claim that the Court should: 'rule that the applicant has the grade and the category corresponding to his university education and professional experience as a lawyer', claims that the Court should:

Declare the application admissible;

Declare that it is well-founded;

Accordingly:

In the first place

annul the decision whereby the opposite party dismissed the applicant, which decision was notified to him on 18 August 1959 and completed by the decision of 29 September;

rule that the applicant was engaged in October 1958 by the defendant as a translator;

rule that the engagement of the applicant created the legal relationship of a contract of employment under public law as between himself and the defendant;

rule that the said engagement was for an unlimited period and could only be brought to an end by resignation, retirement in the interests of the service, dismissal for incompetence, removal from post or retirement;

Alternatively

rule that the defendant has committed a wrongful act not only in dismissing the applicant in the circumstances of the case but also in employing him in its service thereby giving him the reasonable expectation that he would be employed on a permanent basis;

rule that even if there be no wrongful act on the part of the defendant, the applicant had a reasonable expectation at law that in the circumstances of the case his employment would be continued;

accordingly, in either case, rule that the applicant is entitled to compensation equal to three years' emoluments, and order the defendant to pay the same to him;

As a further alternative

should the Court decide that the engagement of the applicant created the legal relationship of a contract of service:

rule that he is entitled to compensation equal to three years' emoluments and order the defendant to pay the same to him;

order the defendant, in addition, to bear the costs.

The applicant in Case 45/59, having withdrawn, in his reply, his claim that the Court should annul the decision to dismiss him, claims that the Court should:

Declare the application admissible;

rule that the abovementioned decisions were adopted against him under irregular conditions and, accordingly, rule that those measures have had adverse effects for which he is entitled to compensation;

Accordingly, award him, against the European Economic Community:

1. compensation equal to two years' emoluments;

2. compensation of FB 300000 (three hundred thousand);

In addition, order the administration of the European Economic Community to bear the costs in their entirety.

The *defendant* claims that the Court should:

In *Cases* 43/59 and 48/59:

rule that the claims of the applicant, primary or alternative, are unfounded;

Accordingly, reject the application;

order the applicant to bear the costs;

In *Case 45/59:*

rule that the contested decision is not vitiated by irregularity;

Accordingly, reject the applicant's claim both as regards the compensation for material and non-material damage and as regards the compensation for dismissal;

order him to bear the costs.

II — Facts

The facts may be summarized as follows:

The applicants were recruited by the Commission to the Translation Service at different times and in different circumstances:

Miss Eva von Lachmüller and Mr Roger Ehrhardt were recruited on 13 September and 8 October 1958 respectively on a basis agreed orally. During the whole length of their service they were remunerated by a daily allowance of FB 950 which they received, in the form of advances, as 'expert's allowance'.

Mr Bernard Peuvrier received a telegram from the Commission on 19 June 1958 asking him if he could commence his services as an 'auxiliary' on 23 June 1958, and took up his duties on that same date, without any written engagement. His remuneration was fixed on the basis of an annual salary.

The applicants were dismissed by letters dated 25 July 1959 addressed to Miss Eva von Lachmüller, 18 August 1959 addressed to Mr Roger Ehrhardt, and 24 July 1959 addressed to Mr Bernard Peuvrier. Those letters, which came from the Director General for Administration, were written in the following terms:

As regards Miss Eva von Lachmüller:

'I regret to inform you that your duties at the Commission of the European Economic Community as an expert in the Language Service will cease on 31 August 1959. Yours faithfully ...'

The period of notice was extended to 30 September 1959 by letter of 18 August 1959 and to 31 October 1959 by letter of 29 September 1959.

As regards Mr Roger Ehrhardt:

'I regret to inform you that your duties as an expert in the Language Service will cease on 31 October 1959.
Yours faithfully ...'

The period of notice was extended to 30 November 1959 by letter of 29 September 1959.

As regards Mr Bernard Peuvrier:

'I regret to inform you that your duties as an auxiliary translator at the Commission of the European Economic Community will cease on 31 August 1959.
Yours faithfully ...'

The period of notice was extended to 30 September 1959 by letter of 18 August 1959 and to 31 October 1959 by letter of 29 September 1959.

Applications Nos 43/59, 45/59 and 48/59 were lodged respectively on 24 September 1959, 28 September 1959 and 19 October 1959.

When lodging their applications, the applicants in Cases 43/59 and 45/59 each lodged also a request that the implementing of the contested decisions of dismissal be suspended, alleging that to implement those decisions would involve the applicants in irreparable or at least in serious loss.

By order of 20 October 1959, the President of the Court, taking into account the written observations of the defendant, and after hearing the oral observations of the parties at the hearing on 19 October 1959, rejected the request for a suspension of implementation as unfounded. The costs were reserved.

III — Submissions and arguments of the parties

The submissions and arguments of the parties may be summarized as follows:

Submission based on infringement of the rules of law applicable to the conditions of employment of the applicants.

The *applicants* maintain that regardless of the descriptions officially given to them by the administration, the real legal relationship which subsisted between the parties was that of a contract of employment under public law whereby they came under the rules which preceded the Staff Regulations and in particular were a reasonable expectation of security of tenure.

In support of this argument, the applicants in *Cases 43/59 and 48/59* claim that:

from the beginning, they were subject to conditions of service in a way which would be inconceivable in the case of officials appointed to non-permanent posts;

they had to keep regular working hours;

they had to submit to a medical examination by the Commission's appointed medical officer;

they had holidays with pay.

The applicant in *Case 48/59* adds:

the Commission issued him with a certificate enabling him to import his furniture and personal effects, together with a car, into Belgium duty-free;

he held a staff identity card.

Finally, the applicant in *Case 45/59* alleges not only:

that the position offered to him carried with it the reasonable expectation of a permanent post,

that he held a special identity card,

that through the good offices of the administration he was able to import a car into Belgium duty-free,

but states that, according to the 'Conditions of Engagement of Auxiliary Staff', applied by the Commission to the staff described by it as 'auxiliary', that description cannot be attributed to persons engaged for periods exceeding one year. Thus it follows that

since the applicant did not receive notice of dismissal until 13 months after his engagement, he cannot possibly be considered as an 'auxiliary' for the purposes of the regulations in force in the EEC. Moreover, he adds, it must not be forgotten that the staff of the Language Service of the Commission has from the beginning been engaged under the descriptions of 'expert' or of 'auxiliary', and that persons belonging to the second category have been remunerated by a monthly payment the amount of which is appreciably below the remuneration for 30 days of work by an expert, the latter remuneration being paid on a daily basis. Since the duties of experts are the same as those of auxiliaries, that difference in remuneration is to be explained by the fact that the latter, by reason of the stable character of their employment, do not have the right to draw, as it were, 'danger money' against dismissals which are always possible and legal.

The *defendant* argues that the conditions of engagement and of employment of the applicants do not display the features typical of an international or national civil service, that is to say: the 'continuous devotion of the official's activities to the agency which employs him' and the 'appointment of the servant to a post within an administrative establishment'. In support of the foregoing, it points out:

that no decision to make an appointment in conformity with the procedure followed for the engagement of servants appointed to a permanent post was taken as regards the applicants;

that the appropriate letter of appointment always addressed to the said servants was not addressed to the applicants;

that the mode of remunerating the applicants differed from that of the servants on the strength of the establishment, since the necessary funds were always charged to the item in the budget expressly intended to cover expenditure arising from the remuneration of temporary staff, and the fees of free-lance interpreters;

the remuneration of the applicants was never subject to any deduction either for the sickness fund, or for the insurance fund.

In respect of the issue of a special identity card and for the exemptions from duty concerned in Cases 45/59 and 48/59, the defendant replies:

that, as to the first point, this is merely a document for internal use which gave access to the Community premises;

that, as to the second point, it must be borne in mind that there was no direct action on the part of the administration, which did no more than certify that the persons concerned were in the service of the Community.

Finally, as to the argument that the applicant in Case 45/59, by reason of having remained in the service for more than a year, cannot be considered as an auxiliary for the purposes of the 'Conditions of Engagement of Auxiliary Staff' in force in the EEC, the defendant answers that the contract of engagement of the applicant was not for a period exceeding one year, and that it was tacitly renewed at the expiry of that period.

The *applicant in Case 45/59* replies to the latter proposition that, were it to be correct, then since tacit renewal always takes place for a period identical to the period specified on engagement, the defendant must give him notice expiring at the earliest on 27 June 1960.

On the basis of the foregoing considerations, the *defendant* contends that the legal relationship which existed between the parties in each of Cases 43/59, 45/59 and 48/59 was that of a contract of service under private law. The defendant adds that in any event, even if it be accepted that the contract is one under public law, the applicants could not on that account claim security of tenure, because, until such time as the Staff Regulations, provided for under Article 212 of the EEC Treaty are promulgated, all staff must be engaged under contracts of limited duration (Article 246 (3) of the EEC Treaty).

Submission based on misuse of powers in respect of the applicants

The *applicants* maintain that the Commission exercised its powers in an arbitrary manner. In support of this, the applicants in *Cases 43/59 and 48/59* state that the defendant ostensibly considered them as servants engaged on the basis that they were liable to dismissal by giving them, purely for its own ends, descriptions which did not in fact reflect the true position.

The applicant in *Case 45/59* states that even if the incompetence, which seems to have been at the root of his dismissal, had really existed, the administration could never penalize him for it by putting an end to a contract of employment under public law without complying with the prescribed procedure which was certainly not followed.

The defendant's answer to the applicants is that as this is a matter of temporary engagement subject to termination, to which the rules of private law apply, the decision to dismiss them can in no way involve a misuse of powers on the part of the administration.

Submission based on infringement of essential procedural requirements because of the absence of a statement of reasons.

On the basis of their argument that the legal relationship which has subsisted between the parties constitutes a contract of employment under public law; the *applicants* maintain that reasons should have been given for the contested decisions to dismiss them, and that in the absence of such reasons the decisions are vitiated by infringement of essential procedural requirements.

The *defendant* replies that since the applicants were engaged under a contract of service under private law, the disputed decisions to dismiss them were acts coming under private law, for which there was no need to give reasons.

Wrongful act committed by the defendant

The *applicants in Cases 43/59 and 48/59* argue *in the alternative* that the Commission's wrongful act lies in their wrongful and unjustified dismissal, and in the fact that the Commission had evoked and sustained in them a reasonable expectation of security of tenure and at the very least it created a serious misunderstanding for which it must make reparation.

For the purposes of evaluating the loss suffered, the *applicant in Case 45/59* states:

that he had to leave his home in Paris and set up home in Brussels; the manner of this move having regard to the post which had been offered to him by the defendant, gave every indication that he was settling in permanently;

that the speed with which the decision to dismiss him was taken, in the middle of the period when industry was on holiday, made it extremely difficult for him to look for a new post equivalent to the one that he had with the EEC, especially since it was scarcely any use telling prospective employers about his period of service with the Commission.

The *defendant* replies that all that it has said concerning the legal nature of the contract of employment which subsisted between the parties is evidence enough that the applicants could not have been unaware of the temporary nature of their engagement, so much so that no wrongful act can possibly be set up against it in respect of its treatment of them.

It points out that the temporary character of the contract of employment cannot have been unknown to the applicants in Cases 43/59 and 45/59 because:

the applicant in Case 43/59 had only to compare the conditions of her employment with the Commission of the EEC with those which had been applicable to her as an established official of the High Authority of the ECSC;

the applicant in Case 45/59, taken on as an 'auxiliary', was not unaware of the contents of the 'Conditions of Engagement of Auxi-

liary Staff', where the temporary nature of his employment was clearly indicated.

Submission based on infringement of the rules of Belgian law concerning the terms of contracts of service under private law

As *an additional point* the *applicants in Cases 43/59 and 48/59* maintain that on the assumption that the legal relationship which subsisted between the parties arose from a contract of service under private law, the three months' notice given by the defendant must be regarded as insufficient.

For, they say, according to Belgian law, assuming that it app lied to the contract, the minimum period of notice for putting an end to contracts of employment carrying, as in their cases, emoluments above FB 120000 per annum, must be calculated having regard to the amount of the remuneration, the nature of the duties, the length of service, and the age of the person concerned.

The *defendant* objects that it was precisely because it took those factors into account together with the applicants' need to find new employment, that it considered the granting of three months notice to be sufficient.

As for the difficulty in finding other employment, it points out that at the time when the applicant in Case 43/59 was dismissed by the Commission of the EEC she was on leave of absence from the High Authority of the ECSC on personal grounds.

The *applicant in Case 45/59* states in his reply that the plain fact is that he only received a month's notice. Admittedly, he was twice given a month's extension, but those extensions, given on an exceptional basis by administrative action have nothing in common, legally speaking, with the period of notice of dismissal, and cannot be taken into consideration in calculating the latter.

IV — Procedure

The procedure followed its normal course.

By order of 12 February 1960, the Second Chamber decided to refer Cases 43/59, 45/59 and 48/59 to the Court, pursuant to Article 95 (2) of the Rules of Procedure of the Court of Justice of the European Communities.

In the interests of the rational administration of justice, it is considered expedient to join the present cases as being interconnected, and to dispose of them in one and the same judgment.

Grounds of Judgment

Jurisdiction of the Court

It is necessary to examine whether the Court has jurisdiction to pass judgment on the present applications. This issue was raised by the defendant during the proceedings for interim measures, but it was not put forward again in the main proceedings.

Under Article 179 of the Treaty 'The Court of Justice shall have jurisdiction in any dispute between the Community and its servants within the limits and under the conditions laid down in the Staff Regulations or the Conditions of Employment'.

At the present time, in the absence of Staff Regulations and pending their adoption, the Community's servants, in the broadest sense of the term, are subject to

a special and provisional set of rules. This set of rules applicable to the said servants is, since it has not been expressly determined and defined by the competent authorities, the set of rules resulting from the express or implied conditions which were a basic element in the contracts of employment of those servants as between them and the Community.

In consequence, the Court has jurisdiction to pass judgment on disputes between the Community and its servants in the present conditions and circumstances because there exists as between them a set of rules which necessarily, albeit still provisionally, governs their relationship.

Furthermore, Article 173 of the Treaty lays down the general principle that 'The Court of Justice shall review the legality of acts of the ... Commission other than recommendations or opinions'. Far from conflicting with or standing in opposition to the application of Article 179 in the present cases, this principle reinforces, if it were necessary, the soundness of such application.

Therefore the proper course is to reject as unfounded the objection that Article 179 cannot be applied to the present cases because the Community has not promulgated the Staff Regulations of its servants and has not in their absence expressly defined the set of rules provisionally applicable pending those Regulations being drawn up. The objection must be rejected also because, as stated above, there necessarily exists a set of rules applicable to the legal relationship existing between the Community and its servants.

Again, the objection based on the different terminology (servants, officials, etc.) must also be rejected as unfounded, for it is obvious that in the present circumstances and pending promulgation of the Staff Regulations of Officials the word 'servant' includes all persons employed in the services of the Community.

Legal nature of the contracts of employment

Under the conditions and circumstances in which the applicants were engaged by the Commission, the contracts of employment made between the parties arise from the implied agreement between them.

The question arises whether those contracts fall within public law or private law.

In the present cases one of the contracting parties, the Commission of the European Economic Community, acting within the powers conferred on it by the Treaty, has legal personality as laid down by Article 210 of the Treaty. That personality is one of public law by virtue of the powers and duties appropriate to it. Consequently the contracts at issue were concluded by a person at public law.

Moreover, those contracts were concluded to enable the Language Service of the Commission to function properly. The work of that service, which is responsible for ensuring that the contents of the acts of the Commission shall be identical in the four official languages of the Community, constitutes an important element in the procedure which has as its purpose the formulation in each language of those acts; thus that service is of the same public nature as the Commission itself.

Therefore the contracts at issue come under public law and are subject to the general rules of administrative law.

Existence of a right to security of tenure

The applicants argue that, as the legal relationship created by the contracts at issue comes under public law, it confers upon them the advantages of a set of rules pending the promulgation of Staff Regulations and gives them a reasonable expectation of permanent employment.

Therefore, the contested decisions to dismiss the applicants, in terminating that relationship, infringed the rules of law applicable to the conditions of their engagement and were accordingly irregular.

This argument is unfounded.

Articel 246 (3) of the Treaty provides that, until the Staff Regulations of Officials and the Conditions of Employment of other servants of the Community provided for in Article 212 have been laid down, each institution shall recruit the staff it needs and to this end conclude contracts of limited duration.

It follows from that provision that no relationship of employment existing between the Community and its servants before the Staff Regulations and the Conditions of Employment mentioned in Article 212 of the Treaty have been laid down can create any permanent legal relationship between the parties.

In consequence, staff recruited before that date cannot, on the basis of the conditions upon which they were engaged, lay claim to appointment to permanent posts or to the benefits of the future Staff Regulations, since such appointments and such benefits are in themselves inconsistent with the limited nature of any employment relationship created before the entry into force of the said Staff Regulations or Conditions of Employment.

Although the contracts at issue were nevertheless concluded for an indefinite period, this is explained by the impossibility at the time when they were concluded of entering into contracts of limited duration provided for by Article 246 (3) of the Treaty, because the permanent requirements of each service of the Commission could not at that time be adequately foreseen.

Since therefore the contracts at issue, belonged to a stage preceding the conclusion of the contracts provided for by Article 246 (3) of the Treaty, they can on no account imply a common intention between the parties to enter into the legal relationship of a contract of permanent employment, for such an intention is clearly contrary to the principle laid down in the said Article 246 (3).

Nor can such an intention be deduced from the fact that the applicants in Cases 43/59 and 48/59 took part in competitions before entering the service of the Commission, for the object of those competitions was to make available to the institutions of the European Communities a list of candidates suitable for subsequent engagement, and not to recruit staff on a permanent basis. Moreover, the results of each competition were not known until some months after the date when the said applicants were engaged, which rules out any casual link between, on the one hand, the holding of those competitions and of the applicants' taking part in them and, on the other, their engagement.

Therefore, since the applicants have no claim whatsoever, to security of tenure, there is no point considering whether the descriptions 'expert' or 'auxiliary' accurately reflect the nature of the legal relationship which existed between the parties.

In these circumstances, certain measures adopted by the Commission concerning the applicants and certain privileges which it granted to them cannot be used to lend permanence to the contracts of employment at issue since those measures and privileges cannot confer on the said contracts a tenor and meaning which are expressly prohibited by Article 246 (3) of the Treaty.

There is, consequently, no basis for the applicants' argument to the effect that the Commission, by its conduct, encouraged them to expect security of tenure and thereby committed a wrongful act.

Finally, it is not possible, in the present cases, to rely on the case-law of the Court of Justice of the ECSC, which has accepted that servants of the ECSC employed prior to the entry into force of the Staff Regulations could expect permanent employment, because, unlike Article 246 (3) of the Treaty establishing the European Economic Community, the last paragraph of Article 7 of the Convention on the Transitional Provisions does not require every contract of employment concluded before the entry into force of the Staff Regulations to be of limited duration, and does not thereby preclude the relationship whereby the employee has some security and enjoys the expectation of the benefit of the Staff Regulations.

Statement of reasons for the decisions of dismissal

The conduct of an authority, in administrative as in contractual matters, is at all times subject to observance of the principle of good faith.

The contracts at issue, which come under administrative law, are subject to observance of this principle and the fact that they were provisional or temporary does not exempt them from this requirement.

Consequently the contested decisions of dismissal must, in order to terminate those contracts, be justified on grounds relevant to the interests of the service and there must be nothing arbitrary about them, such, for example, as the need to dispense with the services of an unqualified servant or of one occupying a post which has been abolished in the interests of the service.

The statement of the grounds on which an administration measure is dictated by the public interest must be made in terms which are specific and capable of being challenged for otherwise the official concerned would have no means of knowing whether his legitimate interests have been respected or infringed, and furthermore any review of the legality of the decision would be hampered.

In the present cases, the letters of dismissal did no more than notify the applicants, without giving any reasons, of the administration's intention to terminate their contracts.

It is true that, in December 1958, Mr Lankes notified all the auxiliaries and experts employed in the Language Service, including the applicants, that it was necessary to reduce the staff of that service and that, in consequence, not all the servants could be found a place in the final establishment.

The applicants may well have understood that the termination of their contracts was undoubtedly connected in essence with that notification, but having regard to the circumstances of the case, and, above all, to the considerable time which elapsed between the notification, which was in very general terms, and the letters terminating the contracts, there was a duty to give a specific statement of reasons.

In consequence the letters terminating the contracts must be held to be insufficient.

This deficiency constitutes a contractual wrong on the part of the Commission for which it is liable.

Its liability must, in the present case, be assessed in the light of the fact that the termination of the contracts of employment has taken effect and that the Commission must discharge its obligation by way of damages.

In order to assess the amount of the damage, account must be taken of the fact that although the applicants have either been reinstated in to their former posts, or have found new employment, nevertheless they have suffered direct non-

material damage by reason of the anxieties which the precarious position arising from default of the Commission caused them.

The Court has extracted from the circumstances of the case factors enabling it in equity, to assess the damages at FB 60 000 for each of the applicants.

Period of notice granted by the Commission

It is also appropriate to consider whether the periods of notice granted by the Commission in terminating the contracts at issue conformed to normal practice.

In the absence of any relevant requirements in the contracts of employment, it is of no avail to refer to the conditions applicable to temporary servants of the ECSC, because those conditions make no provision for contracts of indefinite duration in the engagement of temporary officials; it is consequently necessary to rely on the general principles of law and on the 'Conditions of Engagement of Auxiliary Staff' to which the defendant refers.

Article 2 of the said conditions provides that, for the termination of contracts for an indefinite period, the period of notice shall be calculated on the basis of one day's notice for every working day.

The contested decisions to dismiss Miss Eva von Lachmüller and Mr Bernard Peuvrier only gave them about one month's notice, when, according to the aforesaid Article 2, the period of notice ought to have been longer.

However, the period was twice extended by a month.

The decision to dismiss Mr Roger Ehrhardt gave him more than two months' notice. That period of notice of itself satisfies the requirements of the aforesaid Article 2.

Furthermore the period was extended by a month.

In view of this, and since the applicants continued to receive their emoluments until the expiry of this period, having at the same time had the opportunity of using it to seek fresh employment, the period of notice actually given by the Commission to the applicants was in the region of three months.

Bearing in mind the age and the family situation of each of the applicants, together with their chances of finding fresh employment, the Court considers this period of notice to be reasonable. Accordingly, no blame attaches to the Commission under this head.

Costs

Under Article 70 of the Rules of Procedure of the Court of Justice of the European Communities, without prejudice to the second subparagraph of Article 69 (3) of those rules, in proceedings commenced by servants of the Communities, institutions shall bear their own costs.

Under the first paragraph of Article 69 (3) of the aforesaid rules, where each party succeeds on some and fails on other heads, the Court may order that the parties bear their own costs in whole or in part.

The applicants have failed on the heads of their application for a ruling that they are entitled to security of tenure and that the period of notice given by the defendant for termination of the contracts in question was illegal.

Accordingly, it is thought fit to award costs as stated in the operative words below.

Upon reading the pleadings;
Upon hearing the report of the Judge-Rapporteur;
Upon hearing the parties;
Upon hearing the opinion of the Advocate-General;
Having regard to the first paragraph of Article 173, Articles 178, 179, 181, 183, 189, 190, 210, 212, 215, and 246 (3) of the Treaty establishing the EEC;
Having regard to the Protocol on the Statute of the Court of Justice of the EEC;
Having regard to the Rules of Procedure of the Court of Justice of the European Communities;

THE COURT

hereby:

1. **Orders the Commission of the EEC to pay the sum of FB 60000 to each of the applicants;**

2. **Awards the applicants two thirds of their costs against the defendant, and orders the latter to bear its own costs;**

3. **Orders the applicants in Cases 43/59 and 45/59 to bear their own costs in the proceedings for interim measures.**

Delivered in open court in Luxembourg on 15 July 1960.

Donner Delvaux Rossi
Riese Hammes

A. Van Houtte
Registrar

A.M. Donner
President

OPINION OF MR ADVOCATE-GENERAL ROEMER DELIVERED ON 4 APRIL 1960[1]

Summary

Mr President,
Members of the Court,[2]

This is the first time since the entry into force of the Treaties of Rome on 1 January 1958 that the Court of Justice has had to consider applications brought against the European Economic Community. These applications concern questions related to the administrative organization of the Commission. In relation to this dispute, the Court will have to decide whether the dismissal of the four servants (the applicants) is open to criticism at law, and what are the consequences of that dismissal. The Court has joined these four applications for the purposes of the report for the hearing and of the opinion. On many points, the facts and the legal relationships on which these applications are based and the purposes of the applications are identical. I shall point out the special features presented by each of

1 – Translated from the German.
2 – This opinion also covers Case 44/59