ORDER OF THE PRESIDENT OF THE FIRST CHAMBER
OF THE COURT
7 FEBRUARY 1983 [1]

Pierre Favre
v Commission of the European Communities

(Interim measures — Temporary employee — Dismissal)

Case 346/82 R

Application for the adoption of interim measure — Suspension of operation — Conditions for the grant
(Rules of Procedure, Art. 83 (2))

In Case 346/82 R

PIERRE FAVRE, a former temporary employee of the Commission of the European Communities, residing at 3 Rue Maurice Barrès, Hettange-Grande, France, assisted and represented by Victor Biel of the Luxembourg Bar, with an address for service in Luxembourg at the Chambers of Mr Biel, 18A Rue des Glacis,

applicant,

v

COMMISSION OF THE EUROPEAN COMMUNITIES, represented by John Forman, a member of its Legal Department, acting as Agent, assisted by Daniel Jacob of the Brussels Bar, with an address for service in Luxembourg at the office of Oreste Montalto, a member of the Commission's Legal Department, Jean Monnet Building, Kirchberg,

defendant,

APPLICATION to suspend the applicant's dismissal pending a decision on the substance of the case,

1 — Language of the Case: French.

THE PRESIDENT OF THE FIRST CHAMBER OF THE COURT, taking the place, by virtue of Article 96 (1) of the Rules of Procedure, of the President of the Court, who is prevented from hearing the application,

makes the following

ORDER

Facts and Issues

By application dated 27 December 1982, which was received at the Court on 29 December 1982, the applicant, a temporary employee of the Commission of the European Communities, requested the Court to suspend the decision adopted by the Commission on 4 November 1982 terminating his contract pursuant to Article 47 (2) (a) of the Conditions of Employment of Other Servants of the European Communities. The period of notice stipulated in Article 5 of the applicant's contract started to run on 10 November 1982 so that the applicant's employment was due to end on 31 December 1982.

The applicant was engaged on 25 September 1981 to undertake the duties of an administrator in Grade A 6 at the Euratom Safeguards Directorate of Directorate-General XVII, Energy, as a temporary employee for an indeterminate period "depending on the duration of the nuclear inspection programme".

At the end of the probationary period a draft probationary report was notified to the applicant on 23 April 1982 casting doubts on his initiative, sense of responsibility and efficiency.

By a letter of 30 July 1982 the Director-General for Personnel and Administration informed the applicant that he had proposed to the appointing authority that his contract should be terminated as from 2 November 1982.

By a memorandum of 19 August 1982 addressed to Mr Burke — the competent member of the Commission — the Director-General for Personnel and Administration, acting on the opinion of the Directorate-General for Energy, proposed that the applicant should be dismissed in accordance with Article 47 (2) (a) of the Conditions of Employment of Other Servants.

The Staff Committee at Luxembourg made representations to Mr Burke on 17 September 1982 asking him for a "second chance" to be given to the applicant but the decision to dismiss him was taken on 4 November 1982 with effect from 10 November.

The contested decision, which was notified to the applicant on 4 November 1982, is the subject of an action for annulment brought on 29 December 1982 when the application for the adoption of interim measures was also

lodged. The applicant contends that the decision to dismiss him will cause him "absolutely irreparable harm and is likely to ruin his whole career". He also pleads his family circumstances, in particular the fact that his wife is seriously ill.

Decision

The applicant has not demonstrated how the decision to dismiss him might cause him irreparable harm and has not adduced facts providing *prima facie* evidence that his application is well founded.

Since there is no reason to suppose that the main application stands a good chance of success, the application for suspension of the decision to dismiss the applicant until the Court has arrived at a decision on the substance of the case cannot be granted.

On those grounds,

THE PRESIDENT OF THE FIRST CHAMBER OF THE COURT,

by way of interim decision,

hereby orders as follows:

1. **The application to suspend the decision to dismiss the applicant until judgment is given on the substance of the case is dismissed.**

2. **Costs are reserved.**

Luxembourg, 7 February 1983.

J. A. Pompe
Deputy Registrar

A. O'Keeffe
President of the First Chamber