OPINION OF MR ADVOCATE GENERAL DA CRUZ VILAÇA
delivered on 1 July 1987 *

Mr President,
Members of the Court,

1. I — These applications are directed against two Commission decisions refusing to grant the applicants in whole or in part the rent allowance provided for in Article 14a of Annex VII to the Staff Regulations of Officials ('the Staff Regulations').

2. The applicants, Arlette Houyoux and Marie-Catherine Guery, both of whom are Commission officials, were assigned to the Commission's Delegation to the OECD in Paris, Mrs Houyoux from 1 July 1982 to 30 April 1985 as a secretary in Grade C 2, and the Mrs Guery from 1 July 1981 to 31 August 1985 as a secretary in Grade C 3.

3. Paris is one of the places of employment in which the problem of accommodation is recognized as being particularly difficult and for that reason, according to Article 14a of Annex VII to the Staff Regulations and Article 2 of Regulation No 6/66/Euratom, 121/66/EEC of the Council of 28 July 1966, a rent allowance may be granted.

4. The first applicant did not apply for the allowance until 21 October 1985, that is to say after she had left the premises which she was occupying in Paris. The second applicant submitted her request on 3 June 1985, that is to say while she was still residing in Paris.

5. Both requests relate, either expressly or by implication, to the whole of the installation period as from the date on which both applicants took up their duties in Paris.

6. In the first case, the Commission rejected the applicant's request in its entirety, on the ground that the allowance could not be granted with retroactive effect. In the second case, the Commission accepted the request only with effect from 1 June 1985, basing its refusal in respect of the preceding period by implication on the same ground as that given in the first case.

7. Both applicants lodged complaints against the administration's decision in accordance with Article 90 (2) of the Staff Regulations, which failed, however, to evoke any response.

8. The applicants are now asking the Court to annul the decisions rejecting their requests and to order the Commission to pay them the allowance in respect of the total duration of their assignment to Paris, increased by default interest at the rate of 8% per annum as from the date on which each amount fell due to the date of actual payment.

9. I now turn to the various grounds and arguments on which the applicants have based their applications.

10. II — In their main argument, the applicants allege a breach of the Staff Regulations and of Regulation No 6/66/Euratom, 121/66/EEC of the Council of 28 July 1966 ('the 1966 Regulation').

11. *A* — The applicants maintain that, according to Article 14a of Annex VII to the Staff Regulations and Articles 2 and 4 of the 1966 Regulation, the rent allowance

* Translated from the Portuguese.

is payable automatically provided the objective conditions laid down by those provisions, relating to the place of employment and the proportion of remuneration paid by way of rent, are fulfilled. In other words, in their view, the right to the allowance does not depend on the prior submission of a request for the grant thereof and the Commission has no discretion with regard to the assessment of those conditions.

In its rejoinder, the Commission finally acknowledged that the appointing authority's power is circumscribed. Although Articles 1 and 2 of the 1966 Regulation provide only for the *possibility* of granting the allowance ('may be given', 'may be granted') and Article 3 refers to the possibility of limiting the amount of the rent to be taken into account for the calculation of the allowance, the fact remains that the terms in which Article 4 is couched ('a rent allowance *shall be granted* . . .') dispel any doubts regarding the rights of officials who fulfil the conditions laid down in that provision.

12. *B*— According to the Commission, however, that fact does not mean that the rent allowance may be granted with retroactive effect. In such a case, the appointing authority would be unable to ascertain, before granting the allowance, whether the conditions for the grant thereof had been fulfilled or to calculate the amount of the allowance. Moreover, to permit the allowance to be granted with retroactive effect would mean that officials could apply for it at any time, without complying with the time-limits prescribed by the Staff Regulations.

13. According to the applicants, on the other hand, there is nothing to prevent the allowance from being granted with retroactive effect, once it is established that the conditions for granting it have been fulfilled during the period in respect of which the allowance is claimed. Moreover, as the applicants pointed out at the hearing, it makes no sense to contend that the time-limits laid down have not been observed since, in their view, no time-limit is prescribed for those purposes.

14. *C*— As regards the first aspect of the problem (the question of retroactivity), it is indisputable that, pursuant to Article 3 of the 1966 Regulation, the appointing authority must consider whether the accommodation is suitable for the requirements of the official 'before granting any allowance'.

15. However, the possibility of granting the allowance in respect of a period which has already elapsed does not mean that it is impossible to carry out the prior verifications required by that provision. Clearly, the allowance may not be granted without ascertaining beforehand whether the conditions laid down have been satisfied but (a) there is nothing to prevent that being done in respect of a period which has elapsed, and (b) once it has been established that those conditions are satisfied, there is nothing to prevent the allowance from being granted in respect of that period.

16. Moreover, in accordance with the information provided by the Commission's Agent at the hearing, it would appear that verification is carried out simply on the basis of the lease, followed by further checks only in case of doubt.

17. It may perhaps be added that, to some extent, the grant of the rent allowance will almost invariably have retroactive effect, except where the submission of the request, the necessary verifications and the decision to grant the allowance all preceded the official's taking up his duties at his new place of employment. In that case, the allowance can be granted as from the actual date of the official's installation, without the decision having any retroactive effect whatsoever.

18. But that would imply that the official in question had already found accommodation in the place to which he was transferred, which is by no means invariably the case, particularly where the place is one 'where the problem of accommodation is recognized as being particularly difficult'. Usually, an official who is transferred applies for the allowance only after he has taken up his duties and has actually installed himself in his new place of employment.

19. Hence there is no reason not to grant the allowance as from the date of the official's installation, even if the request is not submitted during that month and is not assessed until several months later (as in the case of Mrs Guery, who received an answer from the Commission more than four months after submitting her request).

20. In fact I agree with the applicants' view that submission of a request is not a *conditio sine qua non* for entitlement to the allowance to arise under the Staff Regulations once the objective conditions laid down therein have been fulfilled. None the less, the submission of a request is the standard and appropriate way of asserting that right (of 'exercising the right') since — without prejudice to what I shall say on the subject of the administration's conduct — the administration cannot in my view be required, in all cases and in normal circumstances, to grant the allowance automatically. The use of the term 'may' in the Staff Regulations and in the 1966 Regulation, and consideration of the conditions for the grant of the allowance, are instructive in that regard.

21. In any event, that undermines not only the statement made by the Commission in response to Mrs Houyoux's request, to the effect that the allowance 'may not be granted with retroactive effect', but also its position with regard to Mrs Guery's request, which is based on the notion that, in order to be granted from the outset, the allowance should be claimed during the first month following the official's installation.

22. *D*— However, the Commission maintains that the possibility of granting the allowance with retroactive effect would enable officials to apply for it at any time, which would conflict with the time-limits laid down by the Staff Regulations. The Commission also pointed out at the hearing that if entitlement to the allowance were recognized as from the date on which the conditions for the grant thereof were fulfilled, the measure open to challenge would be the first salary statement that did not include the amount of the allowance, hence the time-limits for challenging that measure have already been exceeded.

23. However, the Commission does not specify which time-limits prescribed by the Staff Regulations it considers capable of being infringed. Article 90 (1) of the Staff Regulations does not set any time-limit for the submission of a request and, although instances of the setting of time-limits may be found in individual provisions (for instance, Article 13 (1) of the Rules on sickness insurance for Officials of the European Communities and Articles 16 (2) and 17 (1) of the Rules on insurance against the risk of accident and occupational disease for Officials of the European Communities), that is not so in the case of the 1966 Regulation concerning the rent allowance.

24. The other allegation, to the effect that the period for bringing proceedings starts to run from the date of the salary statement, would constitute a ground for declaring the complaint and the application inadmissible, but must, as it was relied upon only at the hearing, be regarded as being out of time, having regard to Article 42 (2) of the Rules of Procedure.

25. Moreover, that allegation is, in my view, totally irrelevant since it makes no sense to require the applicants to notice from the salary statement that it does not include an allowance which can only be allocated on the basis of information and proof that only they can furnish, after the necessary verifications have been carried out by the administration and, in particular, of whose existence the applicants were still unaware.

26. It must be borne in mind, moreover, that, even when the Court considered that the monthly salary statement can have the effect of starting time running for the purposes of bringing proceedings, it limited that possibility to cases in which the salary statement 'clearly shows the decision taken'. [1]

27. The applicants have also relied on the judgment of the Court in *Hochstrass*. [2] In my view, notwithstanding the fact that each dispute is characterized by its own specific features, the principles laid down in that judgment are, *mutatis mutandis*, applicable to this case. The point at issue there was whether the period for lodging complaints had been complied with in a situation in which the administration had refused to grant the foreign residence allowance to an official, at the latter's request submitted in accordance with Article 90 (1) of the Staff Regulations, after the appointing authority had failed to include the claimant amongst the officials eligible for that allowance in implementation of Regulation No 912/78. The Court held that the machinery set up by Article 90 (1) and (2) of the Staff Regulations means that 'in the case of an act which is general in nature and which is intended to be implemented by means of a series of individual decisions affecting many officials in an institution, the non-application of that general measure to a particular case cannot be considered as a decision, even implied, rejecting a request of the kind envisaged by Article 90 (1)' and that, consequently, the period for instituting proceedings started to run from the date of the express or implied rejection of the request submitted.

28. Clearly, the Court was also concerned to prevent Article 90 (1) from being used to circumvent the time-limits for lodging complaints or appeals, which are laid down in Articles 90 (2) and 91 (3). For that reason, it stated in its recent judgment in *Esly* [3] that, according to a consistent line of decisions, the right to submit a request in accordance with Article 90 (1) does not allow an official to set aside the time-limits laid down in Articles 90 and 91 for the lodging of a complaint or an appeal by indirectly calling in question by means of a request a previous decision which has not been challenged within the period prescribed.

29. That principle is, however, inapplicable to the case *sub judice* since, as we have seen, there was no previous decision against which the applicants could have instituted proceedings.

30. The point at issue is whether the time-limit for applying for the allowance was exceeded, with the result that the allowance had to be refused or could be granted only as from the commencement of the month in which the request was submitted.

31. *E*— From that point of view, and quite apart from all the foregoing considerations, it is necessary to emphasize the existence of a number of circumstances which help to explain why the applicants did not apply for the allowance immediately after they had installed themselves and only did so much later.

32. Although it is true that, as in the case of every other official, the applicants received

1 — Judgment of 21 February 1974 in Joined Cases 15 to 33, 52, 53, 57 to 109, 116, 117, 123, 132 and 135 to 137/73 *Schots-Kortner and Others* v *Council, Commission and Parliament* [1974] ECR 177, at p. 189.

2 — Judgment of 16 October 1980 in Case 147/79 *Hochstrass* v *Court of Justice* [1980] ECR 3005, at p. 3018.

3 — Judgment of 15 May 1985 in Case 127/84 *Esly* v *Commission* [1985] ECR 1437, paragraph 10 of the decision.

a copy of the Staff Regulations upon their entry into service, it is equally true that they were given a copy of the 'Vade-mecum for the use of officials transferred to a Commission delegation or information office', which contained information that was likely to mislead the officials to whom it was addressed.

33. Paragraph 9 of the aforesaid vade-mecum, which is to be found in Title I entitled 'Reimbursement of expenses incurred as a result of a transfer — Miscellaneous allowances', is the only paragraph which refers to rent allowances under the heading 'Allowances for the cost of accommodation (outside the Member States of the EEC)'.

34. As regards the conditions for the grant of that allowance, paragraph 9 refers to an annex which contains an internal service memorandum dated 1 January 1980. That memorandum refers solely to the allowance provided for in the second subparagraph of Article 14 (1) of Annex VII to the Staff Regulations, and makes no mention whatever of the allowance provided for in Article 14a of Annex VII.

35. In other words, an official who is seconded to a Commission delegation to one of the Member States of the Community is supplied by the administration with a vade-mecum in which the only rent allowance referred to is that payable solely in countries outside the Community, a fact which is confirmed by the reference to the internal service memorandum, which mentions a provision (Article 14) relating to specific cases that have nothing to do with the applicants' situation.

36. In those circumstances, there can be little or no doubt that the information provided by the administration was likely to mislead two officials in Grades C 2 and C 3 with regard to the existence of the right in question.

37. Clearly, the vade-mecum cannot take the place of the Staff Regulations and, as the Commission maintains, there is no guarantee that it sets out all the rights and advantages conferred on officials. However, it is impossible to accept the Commission's argument that the applicants committed an 'inexcusable error' by failing to discover the confusion, contradiction or omission sooner and that, by reason of that fact alone, they forfeited in whole or in part the right to the allowance which they could claim on taking up their duties. It would be unlawful, in my view, to penalize an official merely because he has not called in question the competence and good faith of the administration.

38. But there is a further circumstance in addition to that which I have just mentioned. On 29 January 1985 the central administration of the Commission in Brussels sent to the Paris Delegation a memorandum, accompanied by a copy of the 1966 Regulation, drawing attention to the fact that Paris was one of the places of employment in respect of which the rent allowance could be granted and adding that 'it would be interesting to know which officials might be eligible for it'.

39. The Paris Delegation took no action on that memorandum, which is all the more curious as the delegation is a small unit with only 11 officials.

40. III — In the light of the foregoing considerations, the following conclusions can already be drawn:

(1) No time-limit is expressly laid down for submitting a request for the grant of the rent allowance, and the Commission's position is unfounded inasmuch as it argues, on the basis of the time-limits allegedly prescribed by the Staff Regu-

lations, that the decision granting the allowance takes effect as from the commencement of the month in which the request was submitted;

(2) In principle, there is nothing to prevent recognition of the right to the allowance with effect from a date prior to that on which the request was submitted, provided the conditions laid down by the Staff Regulations and the 1966 Regulation are fulfilled, in particular where the belated submission of the request is fully justified by the circumstances of the case;

(3) The administration is under a duty to ascertain, in so far as is possible, whether the conditions relating to the whole of the period in respect of which the allowance is claimed are fulfilled.

41. Moreover, the vade-mecum which I referred to earlier provides a further argument in support of those conclusions. According to paragraph I, which is entitled 'Effects of rights', the date on which rights to allowances and so on arise is fixed by reference to the date on which the official takes up his duties[4] (which date may not precede the date on which the decision transferring the official concerned takes effect).

42. IV — In my view, there is no doubt that those conclusions apply to the claim for annulment lodged by Marie-Catherine Guery in Case 177/86.

43. The applicant in that case applied for the rent allowance while she was still residing in Paris and while she was still performing her duties in the service of the Commission in that city.

4 — In capitals in the original text.

44. The administration has acknowledged that the conditions for the grant of the allowance were fulfilled, and accordingly allocated it but not with retroactive effect.

45. In my view, therefore, her request must be reconsidered and the allowance must be granted to her with effect from the date of her installation if it is established that the conditions for the grant of the allowance were fulfilled as from that date.

46. V — However, the position of the applicant Arlette Hoyoux in Case 176/86 is somewhat different.

47. Mrs Houyoux did not apply for the allowance until almost six months had elapsed after her duties in Paris had come to an end and after she had been reassigned to Brussels.

48. In my view, the fact that there is no fixed time-limit within which the rent allowance must be claimed does not necessarily mean that the right to apply for it can be maintained in perpetuity.

49. That conclusion is dictated by the requirements of legal certainty. If it were otherwise, the Community institutions might constantly be confronted with claims submitted some considerable time after the situation giving rise to them had come to an end, and even after the officials concerned had left the service.

50. It is reasonable to assume that the legislature did not, in principle, wish to extend the right to apply for the rent allowance provided for in Article 14a of Annex VII to the Staff Regulations beyond the end of the period in which it was payable, in particular after the official concerned has ceased to carry out his duties 'in a place where the problem of accommodation is recognized as being particularly difficult', and where he has been transferred elsewhere and has consequently left the premises which he occupied.

51. That follows from the actual wording of Article 14a and from the regulation adopted for its implementation, which invariably refer, in the present tense, to 'an official employed in a place where . . . ' and to 'an official whose monthly rent . . . amounts to . . . '.

52. It may be said that the legislature took no account of the converse case, which was natural, in view of the requirements of verification and the problems connected with furnishing proof of entitlement to the allowance.

53. The disadvantages of adopting a different solution are, moreover, illustrated in this case by the fact that Mrs Houyoux had mislaid her lease and moved to Brussels almost six months ago.

54. However, although that would seem, in my view, to be the case as a rule, I consider that a different solution may be appropriate in special cases.

55. A clear instance is where an official entitled to the allowance was prevented from applying for it in due time by reason of *force majeure*, which created a virtually insuperable obstacle, or where he fell victim to wrongful conduct or gross negligence on the part of the administration (involving, for instance, the provision of incorrect information) which had the direct purpose or effect of preventing him from applying for the allowance in due time.

56. However, another instance is where, in spite of the absence of an insuperable obstacle or absolute bar (the claimant could always ascertain her rights by other means), the administration was guilty of serious misconduct by failing to take action which would have enabled the official concerned to assert his rights in due time.

57. All things considered, I believe that a situation of that kind arises in this case.

58. In fact, without there being any need to stretch the administration's duty to look after the welfare of its officials or duty of care to the point where it encompasses the obligation to inform them, individually and case by case, of all their rights under the Staff Regulations, even after supplying them with a copy of the Staff Regulations, the fact remains that in this case the administration in Brussels expressly drew the attention of its delegation in Paris, which was responsible for paying the allowance, to the conditions for the grant thereof and suggested, or formally and explicitly demanded, that the delegation ascertain which officials might be eligible for the allowance.

59. Surprisingly, the Paris Delegation took no action on the memorandum it received from Brussels. Had it done so, Mrs Houyoux could have been alerted in time that it was necessary for her to apply for the allowance before being reassigned to Brussels. With 11 officials on its staff, it is highly improbable that any mitigating difficulties or circumstances exist which the delegation can rely upon to justify its inaction. In my view, its failure to act after receiving instructions from above to take action, constitutes serious misconduct which was capable of causing, and did cause, material damage to an official.

60. Clearly, were it not for the administration's wrongful failure to act, Mrs Houyoux would now be in the same position as Mrs Guery. In those circumstances, it would, in my view, be quite unacceptable to treat the two applicants differently.

61. In my view, therefore, to acknowledge, having regard to the circumstances of the case, that Mrs Houyoux — who remained in the service of the same institution — is eligible for the rent allowance as from the date of her installation until the date on which her duties in Paris came to an end, provided she is able to demonstrate to the satisfaction of the appointing authority that all the conditions for the grant of the allowance were fulfilled, is not only a consequence of the breach of the duty of proper administration but also accords with the dictates of fairness.

62. In support of that conclusion, it is to some extent justified to rely, as a precedent, on the Court's judgment in *Richez-Parise*[5] which was referred to by the applicants at the hearing. Clearly, it is inappropriate to draw a parallel with that case on every point. The case *sub judice* is not concerned with the problem of opening a fresh period in order to enable the applicants to exercise a right which they had not asserted because the information they had received from the administration was based on a misinterpretation of the applicable regulations. In that case, the opening of a fresh period was a means used by the Court in order to compensate the applicants (who had applied for an order requiring the Communities to make good the damage suffered) by placing them in the situation in which they would have found themselves were it not for the administration's wrongful conduct. According to the Court that misconduct ('wrongful act or omission') did not necessarily consist in the adoption of an incorrect interpretation and in the supply of incorrect information, but rather in the delay in rectifying such information, with the result that, had it not been for that delay, the applicants would have been able to take a decision and assert their rights in due time.

5 — Judgment of 28 May 1970 in Joined Cases 19, 20, 25 and 30/69 *Richez-Parise* v *Commission* [1970] ECR 325 *et seq.*

63. In this case, the wrongful act or omission consists, in my view, in the actual failure to provide any information at all and, as we have seen, it is clear and unequivocal inasmuch as it involved a failure to comply with instructions the meaning of which left no room for doubt. Moreover, as a result of that misconduct (which testifies to a degree of unscrupulousness in the performance of obligations relating to officials), the applicants did not have an opportunity to discover and assert their rights sooner (even though it is impossible in that connection to speak of a time-limit for bringing proceedings in the strict sense of the term).

64. In any event, it seems to me that in both cases the dictates of fairness call for the adoption of parallel solutions.

65. Mrs Houyoux may be faced with the problem of furnishing proof that she fulfils the conditions which would entitle her to the allowance but it is primarily for the Commission, acting in the exercise of its supervisory powers, to assess the proof adduced in order to decide whether or not to grant the allowance in question.

66. Moreover, it is unnecessary in my view automatically to apply in this instance the indications set out in Paragraph 9 (a) of the vade-mecum (the amount of the allowance is to be fixed on receipt of a signed lease and the relevant division must be consulted with regard to the amount of the proposed rent before the lease is signed), which are referred to by the defendant in its rejoinder. As we have seen, those indications relate to a different allowance and are set out in a document — the vade-mecum — which merely provides guidance and does not lay down any rules.

67. VI — In the light of the foregoing, I do not consider it necessary to make any

further comment on the subject of the applicant's alternative reference to the general principles of law, in particular the principles of the protection of legitimate expectation, equality and distributive justice, and to the administration's duty to look after the welfare of its officials and its duty of fairness.

68. **VII** — The applicants also seek an order requiring the Commission to pay them default interest at the rate of 8% per annum, as from the date on which each amount fell due until the date of actual payment.

69. I believe that, in the light of the case-law of the Court, the conditions for accepting that claim in substance are fulfilled.

70. Notwithstanding the fact that Community law makes no provision for the fixing of default interest, the Court has come to accept, after the stance it initially took on the matter in its judgment in *Campolongo*,[6] that the Community institutions are in principle under an obligation to grant default interest by way of compensation for any delay in the payment of sums due to officials.

71. The Court has even abandoned its initial requirement[7] that there should be particularly negligent conduct or a grave error on the part of the institutions in their relations with officials and it has made the obligation to pay default interest conditional on objective proof of delay being furnished (the debtor bears the onus of proving that he made every possible effort to avoid the delay), independently of proof of any actual damage to the creditor.[8]

72. In this case, moreover, the administration's misconduct has, in my view, been established to a sufficient extent. In addition, the Commission's debt is payable and can to a sufficient extent 'be ascertained on the basis of established objective factors'[9] in order to justify the award of default interest. At the Court's request, moreover, the Commission furnished a precise indication of the total amounts payable to the applicants by way of the rent allowance.

73. **VIII** — As for the rate at which interest is to be paid, I believe that, as in most previous judgments,[10] it may be fixed at 6%, and that such interest is payable as from the date on which the applicants applied for the allowance, being the date on which the amounts in question would have been paid if the Commission had applied the law judiciously.[11]

6 — Judgment of 15 July 1960 in Joined Cases 27 and 39/59 *Campolongo* v *High Authority* [1960] ECR 391, at p. 407.

7 — Judgment of 20 February 1975 in Case 21/74 *Airola* v *Commission* [1975] ECR 221; judgment of 26 February 1976 in Case 101/74 *Kurrer* v *Council* [1976] ECR 259; judgment of 1 July 1976 in Case 58/75 *Sergy* v *Commission* [1976] ECR 1139; judgments of 13 October 1977 in Case 106/76 *Deboeck* v *Commission* [1977] ECR 1623, and in Case 14/77 *Van den Branden* v *Commission* [1977] ECR 1683.

8 — Judgment of 16 March 1978 in Case 115/76 *Leonardini* v *Commission* [1978] ECR 735; judgment of 13 July 1978 in Case 114/77 *Jacquemart* v *Commission* [1978] ECR 1697; judgment of 16 October 1980 in Joined Cases 63 and 64/79 *Boizard* v *Commission* [1980] ECR 2975; judgment of 5 February 1981 in Case 40/79 *P.* v *Commission* [1981] ECR 361; judgment of 2 July 1981 in Case 185/80 *Garganese* v *Commission* [1981] ECR 1785; judgment of 18 March 1982 in Case 103/81 *Chaumont-Barthel* v *Parliament* [1982] ECR 1003; judgment of 6 October 1982 in Case 9/81 *Williams* v *Court of Auditors* [1982] ECR 3301; judgment of 5 May 1983 in Case 785/79 *Pizziolo* v *Commission* [1983] ECR 1343; judgment of 20 March 1984 in Joined Cases 75 and 117/82 *Razzouk* v *Commission* [1984] ECR 1509 *et seq.*; judgments of 15 January 1985 in Case 158/79 *Roumengous* v *Commission*, in Joined Cases 532, 534, 567, 600, 618, 660/79 and 543/79 *Amesz and Others* v *Commission* and in Case 737/79 *Battaglia* v *Commission* [1985] pp. 39, 56 and 72 respectively.

9 — Judgments of 30 September 1986 in Cases 174, 175, 176, 233, 247 and 264/83 *Ammann and Others* [1986] ECR 2647.

10 — See judgments in *Jacquemart, Garganese, Chaumont-Barthel, Williams, Pizziolo, Razzouk* and *Roumengous*.

11 — See judgments in *Sergy, Jacquemart, Pizziolo, Razzouk* and *Roumengous*; it seems to me, however, that in this case it is necessary to take account of the dates on which the requests were submitted for the purposes of Article 90 (1) of the Staff Regulations, and not the dates of the complaints lodged under Article 90 (2).

74. IX — In the light of those considerations, I suggest that the Court:

(1) Annul the Commission's decisions notified on 14 November 1985 and 16 October 1985 in so far as they rejected, in whole or in part, in respect of periods which had elapsed, the requests submitted by the applicants for the grant of the rent allowance;

(2) Order the Commission to re-assess the applicants' requests in respect of those periods and to pay the the applicants the rent allowance in the corresponding amount as from the date of their installation, provided it is established that all the relevant conditions laid down by the 1966 Regulation have been fulfilled;

(3) In the event of the applications being upheld, order the Commission to pay default interest at the rate of 6% on the sums owed to the applicants, such interest being payable as from the dates on which they submitted their requests for the grant of the rent allowance;

(4) Order the Commission to pay the costs since it has failed in most of its submissions.