Whereas, since he could have clarified them in his reply to be presented in Joined Cases 19 and 65/63, it was not necessary to lodge a separate application;

Whereas, therefore, he must be ordered to bear his own costs, and the defendant's costs must be borne by it in accordance with Articles 70 and 96 (1) of the Rules of Procedure;

On those grounds,

Having regard to Articles 43, 69 (4), 70, 78 and 95 (1) of the Rules of Procedure of the Court of Justice of the European Communities;
Upon hearing the report of the Judge-Rapporteur;
Upon hearing the opinion of the Advocate-General;

THE COURT (First Chamber)

composed of: A. Trabucchi, President, L. Delvaux and W. Strauß (Rapporteur), Judges,

Advocate-General: K. Roemer, replacing M. Lagrange, absent
Registrar: A. Van Houtte

orders:

1. **Case 76/63 is separated from Joined Cases 19 and 65/63;**
2. **Case 76/63 is removed from the Register;**
3. **Each party shall bear its own costs.**

Luxembourg, 14 July 1964.

A. Van Houtte
Registrar

A. Trabucchi
President of the First Chamber

ORDER OF THE PRESIDENT OF THE COURT 25 JUNE 1963[1]

SATYA PRAKASH, a scientific collaborator employed by the Physical Chemistry Department of the Ispra Research Centre (Italy), represented by Ernest Arendt, Advocate of the Cour Supérieure de Justice of the Grand Duchy of

1 — Language of the Case: French.

Luxembourg, with an address for service in Luxembourg at the Chambers of his abovementioned Counsel, 6 rue Willy-Goergen,

applicant,

v

COMMISSION OF THE EUROPEAN ATOMIC ENERGY COMMUNITY, represented by its Legal Adviser, Jan Gijssels, acting as Agent, with an address for service in Luxembourg at the offices of Henri Marzanarès, Secretary of the Legal Department of the European Executives, 2 place de Metz,

defendant,

Application for the suspension of implementation of certain measures disputed in the original application, and that certain interim measures be ordered,

Facts

Whereas by an application lodged at the Court Registry on 27 May 1963 the applicant brought an action for the annulment of a decision of the Commission of the European Atomic Energy Community of 20 March 1963 refusing to integrate the applicant under the Staff Regulations of officials of the EAEC;

Whereas in his application lodged at the Court Registry on 31 May 1963 the applicant claimed that the President should:

I — *As to the request for suspension of implementation:*

Order that the implementation of the decisions impugned in the original application lodged at the Registry of the Court of Justice of the European Communities on 27 May 1963 be suspended;

II — *As to the interim measures:*

(a) Order prior to any further steps in the case and with immediate effect, by virtue of the second subparagraph of Article 84 (2) of the Rules of Procedure, that there be produced at the oral proceedings:
   1. the applicant's original personal file,
   2. the minutes of the Committee which make its observations upon the expiry of the period of probation,
   3. the report of the above Committee,
   4. the minutes of the Establishment Board in so far as they refer to applicant together with the minutes of the hearings given to his superiors and colleagues relating to his case,
   5. the complete report of the Establishment Board in so far as it refers to the applicant;

(b) Order that until judgment is pronounced in the original application the applicant shall continue to be entitled to carry out his work as a research scientist at the Joint Nuclear Research Centre at Ispra, and shall have free access to that part of the laboratory and to those instruments allotted to him as well as to his office;

(c) Alternatively, should the request for suspension not be acceded to:
Grant to the applicant an allowance corresponding to twelve months' salary, as a provision for an advance on salary;

Therefore, order the defendant to pay the applicant the sum of three hundred thousand (300 000) francs, in round figures.

III — *To reserve the costs*

Whereas on 12 June 1963 the defendant lodge its observations on the application for the adoption of an interim measure in which it contends that the President should:
— dismiss the request for suspension of implementation of the impugned decision;
— dismiss the request for the granting of interim measures;
— give judgment on the counterclaim and in doing so order the applicant in the original case to perform all acts arising out of the termination of the contract of employment between him and the Community;

Whereas the parties, having been duly summoned, appeared before the President on 18 June 1963 and submitted their oral observations;

Law

Whereas the application for suspension of implementation of the decision of refusal to integrate the applicant as one of the defendant's officials under the Staff Regulations is in fact, as appears from the wording of the application and from the arguments at the hearing, an application for the suspension of the termination of the applicant's contract of employment as provided for in Article 102 (2) of the Staff Regulations of officials of the EAEC;

Whereas, however, this termination is not referred to in the original application;

Whereas the contract of employment in question provides for a period of notice of one month in case of termination, and whereas this period of notice appears to have been observed in this case;

Whereas, however, the applicant asserts that he is in a financial situation such that he cannot meet his needs prior to the judgment in the original case;

Whereas a provision for immediate sustenance can only be granted by means of an interim measure if the original application appears *prima facie* to be clearly well-founded;

Whereas the features of the case make it impossible at the present stage of the proceedings to form a view as to whether the original application is well founded;

Whereas in these circumstances the supension requested cannot be granted;

Whereas the applicant requests that various provisional steps set out in the application for the adoption of an interim measure be applied in his favour;

Whereas the request appearing at figure II, a, of this application is identical to that made by the applicant in his original application;

Whereas, therefore, it does not seem possible for the judge sitting on the application for the adoption of an interim measure to take a decision on this point, which is one for the Court dealing with the original case;

Whereas the request appearing at figure II, b, was withdrawn by the applicant during the oral part of the proceedings;

Whereas the request appearing at figure II, c, cannot be entertained for the reasons set out above on the examination of the request for suspension;

Whereas as regards the defendant's counterclaim no decision is called for as this counterclaim was withdrawn during the oral part of the proceedings;

On those grounds,

Having regard to Articles 152, 157 and 158 of the Treaty establishing the European Atomic Energy Community and Article 37 of the Statute of the Court of Justice of the European Atomic Energy Community;
Having regard to Article 83, 84, 85 and 86 of the Rules of Procedure,

THE PRESIDENT OF THE COURT OF JUSTICE OF THE EUROPEAN COMMUNITIES

hereby orders:

1. **The application is dismissed;**

2. **The costs are reserved.**

Luxembourg, 25 June 1963.

A. Van Houtte
Registrar

A. M. Donner
President