The judgment of the Court cannot, however, contain an injunction of any kind, for example to the effect that the applicant must be appointed to the post at The Hague. It is for the Commission to draw the necessary administrative conclusions from the judgment annulling the decision.

As the application is well founded, the Commission must pay the entire costs of the action.

ORDER OF THE PRESIDENT OF THE FIRST CHAMBER OF THE COURT

12 DECEMBER 1968[1]

In Case 27/68R

R. F. RENCKENS, official of the Commission of the European Communities, residing in Luxembourg, represented and assisted by Jacques Putzeys, Advocate at the Cour d'Appel, Brussels, with an address for service in Luxembourg at the Chambers of Ernest Arendt, 34/B/IV rue Philippe-II,

applicant,

v

COMMISSION OF THE EUROPEAN COMMUNITIES, represented by its Legal Adviser, Louis de la Fontaine, acting as Agent, assisted by H. Ph. Visser 't Hooft of the Commission's Legal Department, with an address for service in Luxembourg at the Chambers of Émile Reuter, Legal Adviser to the Commission, 4 boulevard Royal,

defendant,

Application for suspension of operation of the Commission's decision of 26 June 1968 in which, acting under Article 4 of Regulation No 259/68 of the Council of 29 February 1968, it adopted a measure terminating the service of the applicant and for the suspension, as a temporary measure, of any appointment to the post of Head of the Commission Press and Information Office at The Hague (Vacancy Notice COM/204).

1 — Language of the Case: Dutch.

Facts

The applicant, an Adviser in Grade A3 in the Directorate-General for Information of the Commission of the European Communities, based at Luxembourg, was informed by the President of the Commission by letter of 22 May 1968 that, owing to rationalization of the Commission's departments, he had been placed on the list mentioned in the first paragraph of Article 4(2) of Regulation No 259/68.

On 14 June 1968, the applicant informed the President of the Commission of the objections which he felt obliged to lodge against this procedure and on 24 June 1968 he asked to be assigned to the post of Head of Department in the Information Office at The Hague.

On 26 June 1968 the Commission adopted a measure terminating his service within the meaning of Article 4 of the Regulation.

On 15 July 1968 the applicant submitted a complaint through official channels under Article 90 of the Staff Regulations against the decision of 26 June 1968.

On 31 October 1968 the President of the Commission, in reply to the complaint, informed the applicant that the decision was unchanged.

By application lodged at the Registry on 13 November 1968, the applicant submitted an application for the annulment of the decision to terminate his service, of the decision rejecting his complaint through official channels and, finally, of the implied decision rejecting his application for the post in the Press and Information Office at The Hague.

His applications for suspension of the operation of the decision of 26 June 1968 and for the temporary suspension of any appointment to the post at The Hague were lodged in separate documents at the Registry on 13 November 1968.

On 23 November 1968 the defendant Commission lodged its written observations concerning the application for the adoption of an interim measure contending that this should be dismissed as unfounded.

On 11 December 1968 the parties appeared before the President of the First Chamber in the unavoidable absence of the President of the Court.

Law

In regard to the application for suspension of operation of the measure terminating the applicant's service, which was the subject of the decision of 26 June 1968, absence of such suspension is not, at the present stage of the proceedings, of such a nature as to defeat the purposes of the judgment to be delivered in the main action.

If, in the event, the aforementioned decision were annulled by the Court in the main action, the Commission would be obliged to retain the applicant in its service and to provide a post for him with duties corresponding to his grade.

Moreover, the disputed measure is not of such a nature as so to affect his financial situation that the suspension of its operation would be justified.

In any case Articles 5 and 7 of Regulation No 259/68 ensure that, whatever happens, he is paid a monthly allowance which will meet his needs for a considerable time.

As regards the application for the temporary suspension of any appointment to the post of Head of the Press and Information Office of the Commission at The Hague, it is necessary to look into the relationship between the decision to terminate his service and the implied decision which, according to the applicant, results from the absence of a reply on the Commission's part to the letter of 24 June 1968 in which he asks to be appointed to the post at The Hague.

The parties disagree on this point.

According to the applicant the fate of these two decisions must be determined in the same way but, according to the defendant, this is not so.

It is for the Court alone to settle this question in the main action.

On this point, whatever the decision in the main action, the suspension applied for is not necessary to ensure that, when delivered, the judgment will be fully effective.

On those grounds,

Upon reading the pleadings;
Upon hearing the parties;
Having regard to the Treaty establishing the European Economic Community and the Statute of the Court of Justice of that Community;
Having regard to the Staff Regulations of the European Economic Community;
Having regard to the Rules of Procedure of the Court of Justice of the European Communities, in particular Articles 83 to 90, 95 and 96,

THE PRESIDENT OF THE FIRST CHAMBER OF THE COURT OF JUSTICE OF THE EUROPEAN COMMUNITIES,

hereby, as an interim ruling, orders:

1. **The applications for suspension and for temporary measure are dismissed as unfounded;**
2. **The costs are reserved.**

Luxembourg, 12 December 1968.

A. Van Houtte
Registrar

J. Mertens de Wilmars
President of the First Chamber