Upon hearing the parties;
Upon hearing the opinion of the Advocate-General;
Having regard to Article 152 of the Treaty establishing the European Atomic Energy Community;
Having regard to the Protocol on the Statute of the Court of Justice of the European Atomic Energy Community;
Having regard to the Staff Regulations of Officials of the European Atomic Energy Community, especially Articles 5, 7, 21, 24, 25, 86 to 91 and Annex IX;
Having regard to the Rules of Procedure of the Court of Justice of the European Communities;

THE COURT (First Chamber)

hereby:

1. **Dismisses the first and third heads of claim in the application as inadmissible and the second head of claim in the application as unfounded;**
2. **Dismisses the claim for damages as unfounded;**
3. **Orders each of the parties to the proceedings to bear their own costs.**

Donner Monaco Mertens de Wilmars

Delivered in open court in Luxembourg on 11 July 1968.

A. Van Houtte — Registrar

A. M. Donner — President of the First Chamber

OPINION OF MR ADVOCATE-GENERAL ROEMER DELIVERED ON 12 JUNE 1968[1]

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Mr President,
Members of the Court,

The applicant in the case on which I give my opinion today is an official of the European Atomic Energy Community employed at the Nuclear Research Centre at Ispra. The Centre is run, as you need to know if the case is to be understood, by a director ('directeur') in Grade A1, assisted by a deputy director ('directeur adjoint') in Grade A2. The latter has direct control over the departments responsible for 'services administratifs', 'services généraux' and 'services techniques'. The last-named of these is of special interest to us, being the one of which the applicant in the present case is in charge. It comprised *originally* the administrative units known as 'Études générales et Génie radio-actif', 'Fabrication', 'Bureau d'Architecture' and 'Infrastructure'.

Now it seems that between the applicant, a Grade A3 official, and the head of the Infrastructure Department below him (also in Grade A3) there were continual difficulties and strained relations, culminating in a heated exchange of notes and memoranda, and talks in which the Director of the Centre and his deputy participated. The latest of these was when an invitation was being drawn up for private undertakings to tender for a contract for the maintenance of the installations of the Centre, and the applicant felt that he had been by-passed by the head of the relevant department (Infrastructure); and when the directorate was considering removing this department from the division under the applicant's control.

These events led the applicant to send two notes to the Deputy Director of the Centre; in the first (18 November 1966) he complained about the separation of the Infrastructure Department from the technical services, and in the second (21 November 1966) he demanded, referring to Article 21 of the Staff Regulations, that his opinion on the choice of a private undertaking to maintain the installations of the Centre be sought before the 'Comité consultatif des achats et marchés' at the Centre made its decision on the matter. He received a reply in the form of a memorandum from the deputy director on 22 November 1966, and one from the Director of the Research Centre on 2 December 1966. The first of these stated that it was impossible to see what use an opinion from the applicant could be to the 'Comité consultatif', because he had said himself that he was not conversant with the matter; in any case he had already had an opportunity of presenting his views on the subject to satisfy the requirement of Article 21 of the Staff Regulations. The memorandum of 2 December 1966 confirmed this reply. It also confirmed an oral decision reportedly taken with regard to the applicant, removing the Infrastructure administrative unit temporarily from his control by reason of the incidents which had occurred in recent years, and placing it under the directorate. The applicant disagreed with this decision and submitted a formal complaint dated 10 January 1967 to the Commission, as provided for by Article 90 of the Staff Regulations. In it his claims were, that the abovementioned memoranda had deprived him of the opportunity of stating his views on the tenders for maintenance of the installations at the Centre, that the withdrawal of his responsibility for the Infrastructure administrative unit, made apparently by word of mouth, was an unlawful interference with the detailed list of posts, and that the memorandum of 2 December 1966 contained two unjustified disciplinary measures.

When the only answer he received was an interim decision of 16 March 1967 initiating an inquiry, he commenced an action in the

Court of Justice on 16 May 1967 in which he sought the following:

1. A declaration that the decision contained in the first paragraph of the memorandum of 2 December 1966 was void to the extent that it confirmed the contents of the memorandum of 22 November 1966.
2. A declaration that the decision contained in the memorandum of 22 November 1966 was void to the extent that it amounted to a refusal of the applicant's request of 21 November 1966 that he be permitted to submit an opinion before the 'Comité consultatif des achats et marchés' took its decision on the selection of an undertaking to carry out maintenance of the installations at the Centre.
3. A declaration that the decision which is alleged to have been taken and to have been communicated orally to the applicant, temporarily relieving him of responsibility for the Infrastructure Department, is void.
4. A declaration that the applicant has the authority to supervise the activities of the Infrastructure Department, and so submit his opinion on any of this department's proposals.
5. A declaration that the disciplinary measure contained in paragraph 2 of the memorandum of 2 December 1966 is voided.
6. A declaration that the disciplinary measure contained in paragraph 3 of the said memorandum is void.
7. An order that the Commission must make good the damage caused to the applicant by the behaviour of the management of the Nuclear Research Centre, and on that ground make an award of one Belgian franc as nominal damages.

In addition to this the applicant made a subsidiary request for production of the minutes of a meeting of the 'Comité consultatif des achats et marchés'.

The original defendant, the Euratom Commission, succeeded by the Commission of the European Communities which replaced it as defendant as a result of the merger of the Community institutions after the statement of defence had been lodged, is of the opinion that most of the applicant's claims cannot be the subject of an appeal to the Court. As a result the Commission contends that heads 1 to 6 of the applicant's conclusions should be dismissed as inadmissible. It considers that the claim for damages is unfounded and asks that it be dismissed on this ground.

These are the facts and conclusions to be dealt with in the following:

Legal consideration

I — Admissibility

It is clear that among the issues in dispute those concerning admissibility are of the most immediate concern. In the present case this does not include the question of the time-limit for commencing the action; there is nothing open to objection in that respect, as is shown by the relevant dates (complaint through official channels made on 14 January; appeal lodged in the Court on 15 May) taking into account the extension of the time-limit on account of distance. There are, however, substantial problems of admissibility entangled in the legal character of the measures submitted for your appraisal. They all come down to the simple question of where the borderline is to be drawn between purely internal measures which are not open to appeal here and those which amount to 'measures adversely affecting' officials within the meaning of Article 91 of the Staff Regulations.

In order to examine this question it is helpful to divide the relevant heads of the applicant's conclusions into three factually-related groups and take a closer look at their special features.

1. *Heads 1 and 2 of the applicant's conclusions*

The circumstances which gave rise to the first two heads of the applicant's conclusions are narrowly circumscribed and specific, namely the preparation of an invitation to tender for a contract to maintain the installations at the Nuclear Research Centre and the selection of an undertaking for this purpose. Believing that this came within his

sphere of duty the applicant wished to submit his opinion on the matter to the 'Comité consultatif des achats et marchés', but this was denied him in two memoranda from the administration of the Nuclear Research Centre (22 November and 2 December 1966). He accordingly seeks a declaration that these two measures are null and void.

Like the Commission, however, I do not think that such a request can be granted. Even in Member States' own laws relating to civil servants the principle is accepted that individual questions concerning internal administration or the functioning of a department cannot be brought before the administrative courts.[1] The principle arises from the desire to avoid outside jurisdictions encroaching too far on the details of the business of an administration, for such interference might affect the productivity of public bodies and is difficult to reconcile with the dignity of judicial decisions.[2] In any case the individual orders issued by an administration in the exercise of its functions can in no way influence the legal position, or the status, of the official affected by them.

That is without doubt the situation in the present case, where only the handling of a single matter in the business of the service and the order of the applicant's superior relating to it call for consideration. In substance this is wholly comparable with the mission orders considered in Joined Cases 27 and 30/64, which, as suggested in my opinion, had to be declared measures against which an application could not be entertained. Article 21 of the Staff Regulations provides in any case a satisfactory opportunity for the officials affected to safeguard their interests in the face of internal administrative orders of this kind. They may, if they consider that an instruction is irregular or that its execution would give rise to serious difficulties, inform their superior accordingly; but they must comply with the instruction on its being expressly confirmed in writing. The applicant did in fact exercise this right, as may be seen from the description of the facts which I have given.

The only conclusion possible on the first two heads of the applicant's conclusions is, therefore, that they must be dismissed on the ground of inadmissibility because of the absence of any 'act adversely affecting' the applicant.

2. *Heads 3 and 4 of the applicant's conclusions*

The question of the admissibility of heads 3 and 4 of the applicant's conclusions is more difficult to decide. These concern the temporary removal from the applicant's control of the Infrastructure Department originally supervised by him.

Now there is certainly no need for us to linger over the point disputed by the applicant, whether an *oral* instruction to this effect was issued, for there is a clear *written* 'confirmation' in the memorandum from the director of the Centre of 2 December 1966.

Nor does it seem to me important in this context to know whether the measure was only provisional or whether it constituted a permanent alteration of the organization. If such measures are held to be in the nature of 'acts adversely affecting' officials within the meaning of Article 91 of the Staff Regulations, they may still have that character even when they are provisional, so long as they remain effective over a substantial period.

If one looks to national law for help in resolving the question of the admissibility of heads 3 and 4 of the applicant's conclusions, as I have done previously (in Cases 109/63 and 13/64), the view often encountered in doctrine and case-law is that the alteration of the scope of an official's duties is purely an internal instruction bearing on the organization of the service and is not open to challenge in the courts. I refer the Court to the decision of the French Conseil d'Etat of 15 May 1957, mentioned by the Commission, where hospital wards were re-assigned to a different doctor; in German law, I refer

1 — Plantey, Traité pratique de la fonction publique, No 1636; Plog-Wiedow, Kommentar zum Bundesbeamtengesetz §172, note 8.

2 — Thieme, Die öffentliche Verwaltung 1956, p. 528; Krüger, idem, p. 658.

to the judgment of the Lüneburg Oberverwaltungsgericht (Higher Administrative Court) of 14 August 1953,[1] to the effect that the removal from an official of a large part of his duties was not a measure which could be contested before the court.

These legal references do not dispose of the matter, however, for we also know that measures taken in the context of the special position in which a civil servant finds himself vis-à-vis the national administration ('besondere Gewaltsverhältnisse') can constitute measures having an adverse affect —and therefore be contested before the courts—if they affect an official in his capacity as the holder of individual rights, if they concern his basic administrative position ('Grundverhältnis') or—put in another way—if they affect his legal situation under the rules appointing him. This is stated in Plog-Wiedow's Kommentar zum Bundesbeamtengesetz (notes on §172); and similar ideas are to be found in Plantey, Traité pratique de la fonction publique (at No 1625), as also in the *Mosset* conclusions set out in the 'Revue du droit public' 1956, p. 1309. So one may consider that there is an interference with an official's legal position sufficient to be the subject of an appeal to the courts where the *substance* of the official's relationship to the administration is altered, for instance when the official is assigned to duties of a *lower* level (as in Case 15/65). But apart from this substantive change, which does not enter into our case, the same may also be said where the scope of an official's authority is changed. The only difficulty which then remains is in examining the individual cases, for naturally not every alteration of duties calls for consideration, only a fundamental and far-reaching decision, an attack on the *essential content* of the sphere of authority, as I attempted to demonstrate in Case 20/76. It is in such a case, that is to say, where essential powers are withdrawn from an official without equivalent replacement, where the sphere of duties is considerably diminished and its essential nature thereby violated, that the legal situation and status of the official concerned are really called in question. One need only consider his career and promotion prospects, placed in jeopardy by the severe limitation imposed on his functions because there may not be an opportunity for him to distinguish himself sufficiently to be able to advance in his career.

If one attempts to make this occasionally delicate distinction in the present case, there is nothing to indicate that the applicant's legal rights stand in need of protection. There is quite obviously no question of his having been left with purely *formal* duties, as alleged in the reply. All that has been done is to remove provisionally from the applicant *one* of the four administrative units under his control. He is therefore still responsible for the following departments: 'Études générales et Génie radio-actif', 'Fabrication' and 'Bureau d'Architecture'. Not only does this constitute a very large sphere of authority for the applicant as regards the number of officials under him (198), (according to the uncontested statement made by the Commission, the largest administrative unit controlled by an A3 official at Ispra), but in view of the nature of the duties and powers retained by the applicant it amounts to a very considerable area of authority.

Accordingly, I would take the view that the measure of organization put before us does not, in its effects, belong to that category of acts which adversely affect the administrative status or legal position of an official, and cannot therefore be reviewed by the court.

Nor is it possible to find that the measure can be contested before the Court by resorting to the reasoning sometimes applied in French law,[2] according to which what is in fact at issue is a concealed disciplinary measure. Certainly a mere assertion to that effect by one of the parties is not sufficient to make available this right of action against measures relating to the organization of the service; material particulars of the facts must be provided, as required in the judgment in Joined Cases 18 and 35/65 (Rec. 1966 p. 170). I do not think this has been done here; on the contrary, I

1 — Die öffentliche Verwaltung 1954, p. 509.
2 — Cf. Plantey, loc. cit. No 1636.

think we can say—anticipating what I shall say later with regard to the question of the substance of the case—that no further proof is required to the effect that the measures criticized were taken in the interests of the service.

Heads 3 and 4 of the applicant's conclusions must therefore also be dismissed as inadmissible, without its being necessary to go into the question whether, which the Commission denies, the Court of Justice can give a *declaratory* judgment in a staff case as sought in head 4 of the conclusions.

3. *Heads 5 and 6 of the applicant's conclusions*

In the next two heads of his conclusions the applicant seeks a declaration that the statements contained in the memorandum of 2 December 1966, which in his view constitute a reprimand, are null and void. There is another question of admissibility here, because the Commission denies that the statements have any disciplinary effect. As you know, it is stated in this memorandum, which was addressed to the applicant by the Director of the Centre, that: 'During the last two years the Directorate has on several occasions had to place on record that your actions were not such as should be expected of a person entrusted with your duties. In particular you were warned by Mr Mercereau (in his note to you of 3 February 1966) and by Mr Ritter (in his note to you of 16 February 1966)'. It is also stated that: 'You may conclude from my answer that the situation is not satisfactory from your point of view. Nor is it from mine and I am forced to look for a solution of the problem which will enable the Technical Services Department to be run in a better and more co-ordinated way'.

It cannot be denied that there is some reproof addressed to the applicant in these words. But this does not decide whether they can form the subject of a right of action. Even national laws relating to disciplinary matters are known to distinguish between formal disciplinary measures which can be contested before the courts and criticism expressed within the service by a higher official, expressing general disapproval and seeking to make the official concerned improve the quality of his work. Such criticism is not open to judicial review because it is not desirable, where the individual rights of the official concerned are not prejudiced, to have any outside interference with the exercise of internal supervisory authority.[1] In the words of §5 of the German Bundesdisziplinarordnung (Federal Disciplinary Law): 'Verweis ist der Tadel eines bestimmten Verhaltens des Beamten. Misbilligende Äußerungen eines Dienstvorgesetzten (Zurechtweisungen, Ermahnungen, Rügen und dergleichen), die nicht ausdrücklich als Verweis bezeichnet werden, sind keine Disziplinarmaßnahmen'. (A reprimand is the expression of a rebuke for specific conduct on the part of an official. Disapproval expressed by a superior (such as reproof, warning, complaint etc.) shall not constitute a disciplinary measure unless expressly designated as a reprimand).

In a decision of 17 March 1967[2] the Münster Oberverwaltungsgericht found to this effect, holding that against such disapproval, even when entered in the official's personal file, there is no recourse open in the disciplinary courts.

Similar principles should be applied by us in the law of the Community relating to disciplinary matters; such Community law, just like the national laws relating to civil servants, accepts the principle that public authorities must be allowed discretionary powers in certain spheres ('Opportunitätsprinzip'), that is to say, it leaves the appointing authority free to choose in the individual instance between a formal disciplinary sanction and informal criticism of an official's conduct. However, when we go on from this to ask whether a disciplinary decision was taken in the present case, the answer must surely be 'no'.

Not only is there no express use of the word 'reprimand'; the procedural requirements of disciplinary law (hearing the official) were not observed, nor were the complaints entered in the official's personal file. This

1 — Cf. Plog-Wiedow, op. cit.
2 — Deutsches Verwaltungsblatt 1968, p. 84.

leads us to conclude that also in the case of heads 5 and 6 of the applicant's conclusions there are no 'acts adversely affecting' the applicant. So they, too, must be dismissed as inadmissible.

II — The substance of the case

But that does not conclude our examination of the subject-matter of the dispute. There remains the claim for damages, which does not raise any problems of admissibility. In addition I would like—as I said—to go briefly into the merits of the conclusions relating to the removal of an administrative unit from the applicant's control, because it may be considered to be a borderline case as far as admissibility is concerned (which certainly cannot be said of the other conclusions).

1. *Merits of heads 3 and 4 of the applicant's conclusions*

The following criticisms have been made of the decision removing the administrative unit designated Infrastructure from the applicant's supervision.

(a) Lack of Authority

In the first place the applicant is of the opinion that the director of the Nuclear Research Centre had no authority to alter the current plan of distribution of the departments with regard to the sphere of control exercised by an A3 official.

The Commission contends that the plan was not definitively altered, something which of course only the competent appointing authority could do; all that took place was a temporary rearrangement of the internal administration in order to overcome a serious disturbance in its functioning.

I think this submission should satisfy us. The relevant measure is in fact expressly stated to be provisional. As we have heard, inquiries were made into the events which concern us here, which owing to the complexity of the matter have extended over a lengthy period and are still in progress, but when they are concluded we can expect a definitive statement on the questions of organization which have been raised. In addition, at the time in question the merger of the European executives was pending, which will certainly entail organizational changes. We need no more evidence to conclude that the director of the Nuclear Research Centre did have authority to make temporary rearrangements of the internal administration of the Centre such as that which occurred late in 1966.

It must however be stated that the reaction of the *Commission* to the applicant's comcomplaint giving rise to this action can be taken as an authoritative confirmation of the measures adopted, which may if necessary validate them retroactively. There is no need to consider further the complaint of lack of authority.

(b) Infringement of Article 25 of the Staff Regulations

I can be equally brief in dealing with the complaint that, contrary to the provision in Article 25 of the Staff Regulations, no written statement of the reasons for the measure was communicated to the applicant.

Article 42 of our Rules of Procedure could alone afford sufficient ground for dismissing the complaint, because it was raised for the first time in the applicant's reply and because the requirements of Article 42 are clearly not met. But there is no need to rely on procedural provisions to show that the applicant's criticism is unfounded.

In fact, the applicant received a written decision at the latest in the form of the memorandum of 2 December 1966, which appears to satisfy the notification requirements of Article 25 of the Staff Regulations. As for the statement of reasons for the decision, however,—besides the fact that it is not wholly absent—it is sufficient to refer to previous decisions of the Court in similar cases. These state that certain measures, when taken in the interests of the service—transfer, for instance—do not call for a statement of reasons (Joined Cases 18 and 35/65, Rec. 1966, p. 149). Since here, too, a temporary rearrangement of the administrative organization is involved which was ordered in the interests of the service, one cannot logically impose stricter

conditions with regard to the giving of reasons for the measures taken to accomplish this.
Thus the complaint based on Article 25 of the Staff Regulations must in any event fail.

(c) Misuse of powers

So far as the substance of the case is concerned the most important matter is undoubtedly the applicant's further complaint, that the measure which he criticizes is based on a misuse of powers, that the principal consideration was not really the interests of the service, but the intention of addressing to the applicant a concealed disciplinary measure and to prevent him from strengthening his authority over the administrative unit designated 'Infrastructure' which was removed from him.
The proceedings have revealed the following matters relevant to these complaints.
To begin with the second point: here, too, we might refer to Article 42 of the Rules of Procedure, that is to say, we might argue that it is inadmissible because there is no mention of it in the originating application. But in this case, too, the Commission has no need to fear the outcome of an argument as to the substance of this complaint.
As I have already pointed out when considering the question of admissibility, we have been given proof—convincing proof, in my view—that the disputed measure was taken solely in the interests of the service. Without going into all the details of the complicated facts, it may be said that in the applicant's sphere of activities, particularly in his relationship with the head of the Infrastructure Department (who, it will be remembered, is in the same grade as the applicant) there had for some time been tension and difficulties which threatened the smooth running of the service. This can be seen in an acrimonious exchange of notes between the parties, including the directorate of the Nuclear Research Centre, and in the applicant's complaints against the head of the Infrastructure Department, and the latter's complaints about the applicant's behaviour, as well as in a series of discussions held between the parties and the directors of the Nuclear Research Centre. In such circumstances the correct view (and one which finds support in the national law relating to civil servants) is surely that an administrative authority is entitled to try to remove the area of friction temporarily and thereby ensure the proper functioning of the service by simply separating the points of contact within the service. In particular this can be done, without first going carefully and exhaustively into the question of fault when this is a complex matter, where it appears likely—as in the present case—that all those involved may be partly to blame (cf. for instance the criticisms in the notes addressed to the applicant on 1 March 1965, 11 March 1965, 31 March 1965 and 3 February 1966), or where objective difficulties stand in the way of simply transferring one of the parties. I can refer the Court here to certain statements in a judgment of the Bundesverwaltungsgericht of 25 January 1967[1] delivered on similar facts.
In the light of these considerations, the applicant has not been able to point to factors numerous and cogent enough to prove any other reason for the contested decision. In particular there appears to be no indication which might lead one to believe that the administration of the Nuclear Research Centre attempted to conceal the conduct of the official formerly subject to the applicant, and to protect him from close supervision by the applicant. The fact that an earlier request by the applicant for disciplinary action to be taken against the other official was not granted does not constitute such an indication in view of the principle that the administration must be allowed a certain discretion in such matters. In applying this principle regard may be had to the effects on the atmosphere prevailing in the service. Similarly, the instances quoted by the applicant of his criticisms of the work of the Infrastructure Department which were rejected by the administration yet accepted by other bodies (the 'Comité consultatif des achats et marchés', the auditors) may be disregarded in view of the persuasive explanations provided by the Commission in the rejoinder (p. 13 et seq.). In principle one

1 — Verwaltungsrechtsprechung, Vol. 19, p. 24.

must accept, until the reverse is clearly proved, that the administration of the Nuclear Research Centre, which exercises direct control over all the services and now also the Infrastructure Department, is no less strict and conscientious in the performance of its duties in the service than the applicant himself. It can also be seen from several of the documents submitted in the course of the proceedings that the management of the Research Centre did not by any means issue warnings solely to the applicant, but that it also repeatedly criticized specifically the head of the Infrastructure Department (cf. the note from the deputy director of 30 September 1963).

So there remains nothing to show that the management of the Research Centre really intended to impose a concealed disciplinary measure on the applicant. Since a thorough investigation of all the questions relating to the present case was ordered and begun, it is reasonable to conclude that only on its completion will the administration of the Research Centre form its view as to whether and, if necessary, against whom, disciplinary measures are required.

I am therefore of the opinion that heads 3 and 4 of the applicant's conclusions, even assuming them to be admissible, are unfounded, notwithstanding all that the applicant has said in support of his complaints.

2. *The claim for damages*

A final claim in this case is made that the Commission should be ordered to pay nominal damages of one Belgian franc for the non-material damage alleged to have been caused to the applicant by the conduct of the administration of the Research Centre during the period here under consideration.

Judgment on this point is not made any easier by the applicant's pleadings, which seem to be limited to justifying his claim on the basis of his formal administrative complaint and a series of documents produced by him as schedules to the application, without explaining precisely what are the circumstances which constitute the reprehensible conduct on the part of the persons whom he names, and the non-material damage caused to him.

Moreover it must be stated at the outset that in itself a claim for non-material damages, that is to say, for certain conduct to be condemned, is a difficult one to support by reference to measures which, because they do not adversely affect an official, cannot be reviewed by the Court. Accordingly, it should be shown that the special circumstances surrounding the measures have caused non-material damage for which compensation ought to be paid.

Having made this necessary reservation, let us now see what observations are called for in view of the argument put forward by the applicant.

As regards the removal from his control of the Infrastructure Department, the principal point to make is that it must be considered to have been justified in the interests of the service and so it cannot be unlawful. Obviously, it is a measure adopted for an objective purpose, and is treated as such by all reasonable persons concerned. It carries no kind of implied criticism of the applicant. Nor has it been proved to us that this measure was capable of giving the impression that the applicant was being disciplined by this means. Accordingly there has in this respect been no wrongful act on the part of the authorities, or any non-material damage.

This conclusion says also all that is necessary with regard to the particular order concerning the procedure for selecting a private undertaking to carry out the maintenance of the Centre's installations, since the general measure (the removal of the Infrastructure Department from the applicant's control) naturally covers the particular order. Here too, there is no sign of any accompanying circumstances which cast discredit on the applicant. In particular it cannot be said that the administration of the Centre took sides with the applicant's subordinates, thus damaging the applicant's prestige.

Lastly, as to the observations contained in the note of 2 December 1966 in which the applicant mistakenly sees a reprimand, they are purely objective statements of fact (so far as they refer to earlier complaints addressed to the applicant). In addition the criticisms are formulated in so general and reserved a manner that they must count as

reproofs permitted within an administration, and so cannot have any defamatory effect. Finally, they are warnings of a purely internal nature, not published to third parties, so that the applicant's reputation could in no way be harmed.

Thus there remains nothing to justify the claim of wrongful injury to the applicant's prestige or his career prospects or to entitle him to an award of compensation for non-material damage. This means that the application must be dismissed as unfounded, even if the objections concerning its admissibility are not upheld.

III — The request for production of minutes

A last brief comment remains to be made on the subsidiary request in the application for production of the minutes of a meeting of the 'Comité consultatif des achats et marchés'.

We need not take up the Commission's objection that the records of the Nuclear Research Centre contain no minutes of a meeting of the 'Comité' for the date given by the applicant, since it may be said that there is absolutely no necessity for granting the request. Not only has the applicant failed to give any reason why the production of the minutes might be relevant to a decision in the case (apparently, it is mainly for his own information that he wants it); but also, and this is decisive, the minutes are known to relate to a matter which—as we have seen—was properly withheld from the applicant. Accordingly, the case can be decided without any need for further information.

IV — Summary

My opinion may therefore be expressed as follows:

Heads 1–6 of the conclusions in the application should be dismissed as inadmissible and the claim for damages as unfounded. Since the applicant has failed in all his claims, he must bear all his costs in accordance with Articles 69 and 70 of our Rules of Procedure.