ORDER OF THE PRESIDENT OF THE THIRD CHAMBER
OF THE COURT
30 JUNE 1983 [1]

Cornelius Fabius
v Commission of the European Communities

Case 39/83 R

In Case 39/83 R

CORNELIUS FABIUS, residing in The Hague, represented by Eric Grabandt of The Hague Bar, with an address for service in Luxembourg at the Chambers of E. Arendt, Centre Louvigny, 34 B IV Rue Philippe-II,

applicant,

v

COMMISSION OF THE EUROPEAN COMMUNITIES, represented by Hendrik van Lier, a member of its Legal Department, with an address for service in Luxembourg at the office of Oreste Montalto, a member of its Legal Department, Jean Monnet Building, Kirchberg,

defendant,

APPLICATION for the adoption of interim measures,

THE PRESIDENT OF THE THIRD CHAMBER

makes the following

1 — Language of the Case: Dutch.

ORDER

1 By application lodged at the Court Registry on 15 March 1983 the applicant brought an action before the Court on the one hand for the annulment of the Commission's decision of 22 December 1982 maintaining the exclusion of the applicant from admission to the oral test for Open Competition No COM/A/325 and, on the other hand, for a declaration that the Commission must undertake, within three months from the date of the Court's judgment, a more thorough inquiry into the suitability of the applicant, or, at least, that the Commission must give the applicant the opportunity to take part in a subsequent open competition for the recruitment of administrators in Grades 6 and 7 of Category A, regardless of the age-limit to be fixed in the notice of competition.

2 The file shows that the applicant sought admission to Open Competition No COM/A/325 and that he took part in the written test but that he was not admitted to the oral test because the Selection Board considered his marks in the written test to be too low.

3 By a separate document lodged at the Court Registry on 20 April 1983 the applicant requested the Court under Article 186 of the EEC Treaty and Article 83 of the Rules of Procedure "to order the Commission, as an interim measure, to authorize the applicant to take part in the remainder of Open Competition No COM/A/325 until judgment has been given on the substance of the case or, at least, to order the Commission, as an interim measure, to instruct the Selection Board for Open Competition No COM/A/325 to authorize the applicant to take part in the remainder of Open Competition No COM/A/325 until judgment has been given on the substance of the case, subject to the proviso that if the applicant is successful in the oral test his name is to be included in the reserve list which is to be drawn up or which has already been drawn up, until judgment has been given on the substance of the case".

4 The Commission contends that the application for the adoption of interim measures should be dismissed.

5 With regard to the observations submitted to the Court by the parties, the applicant has not pleaded either circumstances giving rise to urgency or factual and legal grounds establishing a *prima facie* case for the adoption of interim measures within the meaning of Article 83 (2) of the Rules of Procedure.

6 As the Commission has pointed out the tests for the competition in question have already taken place — between 4 November and 14 December 1982 — and the reserve list has already been drawn up. In those circumstances the applicant's request to be admitted to the remainder of Open Competition No COM/A/325 is devoid of purpose.

7 The application for the adoption of interim measures must therefore be dismissed, the costs being reserved.

On those grounds,

THE PRESIDENT OF THE THIRD CHAMBER,

by way of interim decision,

hereby orders as follows:

1. **The application for the adoption of interim measures is dismissed;**

2. **The costs are reserved.**

Luxembourg, 30 June 1983.

J. A. Pompe
Deputy Registrar

U. Everling
President of the Third Chamber