ORDER OF THE PRESIDENT OF THE COURT 7 AUGUST 1964[1]

In Case 30/64 R

FULVIO FONZI, engineer, a scientific official of the European Atomic Energy Community residing at Sesto Calende (Varese, Italy), represented and assisted by Mario Giuliano, Professor in the Faculty of Law of the University of Milan, with an address for service in Luxembourg at the Chambers of Ernest Arendt, 6 rue Willy-Goergen,

applicant,

v

COMMISSION OF THE EUROPEAN ATOMIC ENERGY COMMISSION, represented by its legal adviser, M. Prelle, acting as Agent, with an address for service in Luxembourg at the office of Mr Manzanarès, secretary of the Legal Department of the European Executives, 2 place de Metz,

defendant,

Application for the suspension of the operation of the decision taken by the Commission in respect of the applicant on 24 June 1964 calling on him to go immediately to Brussels,

Issues of fact and of law

Whereas the applicant by application lodged at the Court Registry on 13 July 1964 has begun an action having as its object, among others, the annulment of a decision of the Commission 'which appears to be of 24 June 1964 (*but which has not been notified* properly to him)' by which the latter 'has ordered Mr Fonzi to go *immediately* to Brussels to 'take up service there temporarily' without prejudice to a later posting to Jülich';

Whereas in his application for suspension lodged at the Court Registry also on 13 July 1964 the applicant claimed that the Court should:

'Without prejudice to the decision on the substance of the case, order the suspension of the operation of the decision taken in respect of him by the Commission on 24 June 1964;'

Whereas the defendant on 25 July 1964 lodged its observations concerning the application for the adoption of an interim order, in which it contends that the Court should:

'Declare the request for suspension of the operation of the contested decision unfounded;

Dismiss it and order the applicant to pay the costs;'

Whereas the parties, having been duly summoned, orally informed the Registry of their intention not to submit oral observations;

Whereas the documents of the parties are sufficient to enable a decision to be made on the application for the adoption of an interim measure;

1 — Translated from the French.

Grounds

Whereas it appears from the observations of the defendant that Mr Fonzi actually went to Brussels on 22 July 1964, and from there to Jülich, where he had the meeting regarded as necessary by the Commission;

Whereas the applicant has not disputed that this is true;

Whereas his conduct amounts to the execution of the decision referred to in his application for suspension;

Whereas the said application is therefore out of time;

Whereas since from the beginning it has been lacking in subject matter, the application for suspension must be declared inadmissible;

On those grounds,

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

THE PRESIDENT OF THE COURT OF JUSTICE OF THE EUROPEAN COMMUNITIES

hereby orders:

1. **The application is inadmissible;**
2. **The costs are reserved.**

H. J. Eversen
Assistant Registrar
For the Registrar

A. M. Donner
President