JUDGMENT OF THE COURT (FIRST CHAMBER)
1 MARCH 1962[1]

De Bruyn
v European Parliamentary Assembly[2]

Case 25/60

Summary

1. Servants — Dismissal — Reasons valid in law — Court's ruling

2. Servants — Installation allowance — Refusal based on an irregular decision of dismissal — Illegality

1. As was recognized by the Court in Joined Cases 43, 45 and 48/59 and in Case 44/59, the acts of an authority, in the contractual as well as in the administrative field, are always subject to the dictates of public interest; therefore every decision of dismissal must be based on reasons affecting the interests of the service and must exclude anything of an arbitrary nature.
This requirement exists from the date of the creation of a legal relationship between the Adminstration and its servants.
In consequence, it is not necessary in the present case to settle the question whether a decision of dismissal, coming at the end of a period of probation of a servant recruited under the Brussels Rules should or should not state the reasons underlying it, because there are grounds for concluding that such a decision must in any case be founded on reasons valid in law.
Hence the Court must rule that it has not been sufficiently established that the impugned decision is founded on a ground valid in law.

2. If the conditions for payment of the installation allowance have been fulfilled, that allowance cannot be refused on the basis of an irregular decision of dismissal.

In Case 25/60

LEDA DE BRUYN, the wife of Giorgio Gerioni, represented by Fernand Probst, advocate of the Luxembourg Bar, with an address for service in Luxembourg at the latter's Chambers, 26 avenue de la Liberté,

applicant,

v

EUROPEAN PARLIAMENTARY ASSEMBLY, represented by Jacques Fayaud, Head of the Personnel Department of the European Parliamentary Assembly, acting as Agent, assisted by Jean Coutard, advocate at the Conseil d'Etat and the Cour de Cassation in Paris, with an address for service in Luxembourg at the offices of the Assembly, 19a rue Beaumont,

defendant,

1 — Language of the Case: French.
2 — CMLR.

Application for:
— annulment of a decision of dismissal dated 3 July 1959;
— compensation for dismissal;
— payment of the installation allowance;
— damages;

THE COURT (First Chamber)

composed of: O. Riese (President of Chamber), L. Delvaux and R. Rossi (Rapporteur), Judges,

Advocate-General: M. Lagrange
Registrar: A. Van Houtte

gives the following

JUDGMENT

Issues of fact and of law

I — Conclusions of the parties

The *applicant* claims that the Court should:

'Rule that the present proceedings are admissible;
rule that it has jurisdiction to hear the matter;
order the Parliamentary Assembly to produce the two documents herein referred to declare the application well-founded and, consequently, annul the decision of dismissal of 3 July 1959 and order the Assembly to pay to the applicant:

1. The sum of 60 000 FB by way of non-material damages;
2. A sum in lieu of notice equal to three months' salary;
3. The installation allowance calculated according to the rules in force;

and
order the defendant to pay all costs and expenses.'

The *defendant* contends that the Court should:

'Note that the European Parliamentary Assembly has chosen its address for service under Article 32 (2) of the Rules of Procedure of the Court as its offices in Luxembourg, 19a rue Beaumont;
note that the European Parliamentary Assembly acknowledges the jurisdiction of the Court as to the admissibility of the application brought by Mrs Leda de Bruyn;
dismiss the application as unfounded in substance with all the consequences in law of such dismissal as the payment of fees, costs and any other expenses.'

II — Summary of the facts

The facts of the case may be summarized as follows:

The applicant was engaged by the European Parliamentary Assembly as a secretary/shorthand typist in the

Translation Department by a letter of employment dated 11 March 1959. She was employed under the so-called 'Brussels Rules'.

She was notified of the termination of her employment by a letter from the Assembly dated 3 July 1959, which read as follows:

'Dear Madam,

In accordance with the provisions contained in the letter of employment attaching you to the Secretariat of the European Parliamentary Assembly, I regret to have to inform you that you are hereby given one month's notice.

Your employment will therefore end on the evening of 3 August 1959.

Yours faithfully,'

On 14 July 1959, the applicant sent a letter to the Secretary General asking him either to withdraw the notice or to pay a lump sum as compensation in lieu of two months' notice, if her contract of service was held to be governed by private law, and, if it was governed by public law, indicating that she would seek to have the contract declared invalid under Article 246 (3) of the EEC Treaty and Article 214 (3) of the EAEC Treaty. She also claimed payment of the installation allowance under her contract.

No reply to this letter was received. The defendant states that the reason for this silence was its decision to defer replying until the dispute had been heard by the Arbitration Tribunal, and later, until the applicant had chosen her method of recourse.

On 25 July 1959, the applicant filed a petition at the 'Arbitration Tribunal for disputes between private employers and employees of the District of Luxembourg' for cancellation of the notice of termination of employment and for various damages totalling 8 000 LF.

The Arbitration Tribunal gave a decision on 22 January 1960 to the effect that the disputed contract of employment was a contract governed by public law, and that it had no jurisdiction in the matter; it therefore recommended the parties to refer the matter to the Court of Justice of the European Communities.

The applicant made the present application on 28 March 1961.

III — Submissions and arguments of the parties

The submissions and arguments of the parties may be summarized as follows:

1. *On admissibility*

The *defendant* raises no objection as to the jurisdiction of the Court to hear this case, which jurisdiction the applicant bases on the judgment of the Court in Joined Cases 43, 45 and 48/59.

However, it emphasizes that the judgment of the Arbitration Tribunal for disputes between private employers and employees of the District of Luxembourg was delivered on 22 January 1960, yet it was not until 7 December 1960 that the applicant applied to the Court of Justice for legal aid. It therefore submits that the action may appear to be out of time.

According to the applicant, the reason for her failure to collect the various documents necessary to obtain legal aid with all due diligence was the anxiety and difficulties occasioned her by the decision to dismiss her. Moreover, she claims that the content of the so-called 'Brussels' contracts is highly fragmented and, as it were, outside the scope of any regulation properly so-called, and that at present the law contains no provision for limitation periods for actions concerning personnel.

The defendant joins with the applicant in submitting this point to the Court for its decision.

2. *On the substance of the case*

After pointing out that, following the

Court's previous decision in Joined Cases 43, 45 and 48/59, the disputed contract of employment should be held to be governed by public law, the *applicant* maintains that the decision of dismissal purporting to terminate it infringes the general principles of law relating to the termination of contracts of employment and to the consequent payment of compensation. She claims, in fact, that this decision:

(a) is not reasoned;
(b) gives a manifestly inadequate period of notice;
(c) was taken on the basis of an arbitrary and unsubstantiated assessment of her probationary period.

(a) On the *first claim*, the *applicant* reminds the Court that the contested decision merely gave notice of the Administration's intention to terminate the contract of employment, without giving any reason, and that following the Court's previous judgment in Joined Cases 43, 45 and 48/59, this in itself is capable of evidencing the irregularity of the decision.

To grant to the institution a discretionary power to terminate its contracts of employment with its servants, without assigning reasons, would be to open the way to all manner of abuse and would expose its servants to the most arbitrary treatment. The applicant adds that there is proof of this in the memoranda dated 29 June and 3 July 1959 lodged in the action, the first of which is a 'general assessment' of the applicant's abilities.

The *applicant* goes on to assert that the European Parliamentary Assembly is in breach of contract on the ground of the absence of reasoning in the disputed decision and that, as termination of the contract has become final, this liability must be discharged by way of damages, in accordance with the case law of the Court.

As to the amount of compensation claimed, the *applicant* states that while, after much difficulty she was successful in finding a new job, it was still necessary, in assessing the damage which she suffered, to take into consideration not only the material loss suffered by the applicant, but also the mental distress caused by the precariousness of the position in which she had been placed by the fault of the Administration. Finally, she maintains that, although those damages had been assessed at 500 FB, and not at 60 000 FB, in her application to the Luxembourg Arbitration Tribunal, the explanation for this is that she had had to limit her claim to the compensation fixed by Luxembourg law. On this point, the applicant claims that it will be for the Court to fix the amount in question *ex aequo et bono*.

The *defendant* replies, in the first place, that the so-called 'Brussels' rules, applied by the European Parliamentary Assembly since its inception on 19 March 1958 to servants recruited before the Staff Regulations provided for in Article 212 of the EEC Treaty and Article 186 of the EAEC Treaty were adopted, were established from a conglomeration of practices and decisions. The rules emerged from the deliberations of the 'Inter-Community Administrative Committee', which was never given official status; each institution drew from the Committee's deliberations the conclusions it required, based on memoranda, directives, even mere practices and, exceptionally, regulations. In such a situation, all that can form the basis of the servant's engagement is a letter of employment which intentionally creates only a very tenuous relationship between institution and servant.

The contract is not one of limited duration referred to in Article 246 (3) of the EEC Treaty and Article 214 (3) of the EAEC Treaty, but is an engagement determinable at any time on a month's notice. As the Court pointed out in its judgments of 15 July and 16 December 1960, it was in fact impossible in such a case to argue the

theory of a contract entered into before the adoption of the Staff Regulations, which developed in relation to the EAEC's original contracts. The *defendant* states that, in the circumstances, although it is true that, for an established official, or at the very least a servant engaged on a long-term, if not actually a permanent, basis, dismissal must be reasoned and supported by the dictates of public interest, it is equally true that where a servant is 'on trial' and not definitively engaged, even as an auxiliary, it is not necessary to assign reasons. When the trial period ends, the employing institution must decide whether, in the light of the employee's skills and temperament, he can be definitively appointed. An evaluation of this kind can only be general in nature and cannot be subject to any sort of outside control, since it is for the institution with which probation was served to assess, in its own discretion, the results of the probation in question. According to the decision of the Court in Case 10/55, the only requirement that can be imposed in the matter is that the servant be given the opportunity during the course of the trial period of showing his capabilities.

In the applicant's case, the *defendant* contends that it was a question of a servant taken on trial. Probation, and its extension owing to the employee's absence on sick leave, was intended precisely to make it possible to judge whether the applicant's technical abilities and general conduct merited the normal continuance of her employment. In these circumstances there was no need for the disputed decision of dismissal to be reasoned, and the applicant cannot claim compensation for breach of contract by the Assembly. As to the amount of such compensation, the *defendant* raises the objection that the applicant cannot claim to have suffered any loss either quantified or quantifiable, so that her claim would seem to be an endeavour to obtain an order for the defendant to pay punitive damages. The defendant raises the further objection that the sum claimed has increased from 500 BF to 60 000 BF between July 1959 — that is to say, at the time of the action before the Arbitration Tribunal of the District of Luxembourg — and the date on which the present action was brought.

(b) As to the *second claim*, the *applicant* points out that the Treaty makes no provision for contracts of indefinite duration, such as the contract in dispute, for servants recruited before the adoption of the Staff Regulations and that consequently, general principles of law derived from the national laws which reflect them are to be applied. She states that, since the period of notice is intended to enable the dismissed servant to find fresh employment suited to his aptitudes and more or less equivalent to the employment which has been terminated, it follows that a period of notice of three months would appear reasonable and that, consequently, the European Parliamentary Assembly should be ordered to pay the applicant compensation equivalent to three months' salary in lieu of notice.

However, the *defendant* maintains that the terms of the letter of employment must be adhered to on this point, and these expressly stipulate a period of notice of one month. Not only does such a period appear to the defendant to be reasonable for employment on probation, but also it emphasizes that the applicant agreed to it. The *defendant* goes on to say that the decision to make appointments subject to the 'Brussels Rules', with their contract of unlimited duration and short period of notice, was one which the institutions of the Treaties of Rome and the Committee of Presidents of the ECSC took deliberately. The responsible authorities did not wish servants recruited before the adoption of the Staff Regulations provided for in the Rome Treaties to feel that they

were assured of benefiting from those Regulations. It therefore contends that the compensation claimed by the applicant cannot be granted.

(c) Finally, as to the *third claim*, the *applicant* draws attention to the fact that the disputed decision to dismiss her is unjustified in view of her probation report, which, as appears from the departmental memoranda of 29 June and 3 July 1959, the competent authorities considered to be satisfactory.

She also asserts that in this case she had met, within the proper time, the three conditions required for payment of the installation allowance, namely:

— a favourable probation report;
— a favourable medical examination; and
— proof of installation;

and that consequently, she has acquired the right to payment of this allowance. Moreover, the *applicant* adds in her reply that it should be borne in mind that any decision concerning such entitlement should be judged in the same light as that relating to the failure to assign reasons for the dismissal, because the whole crux of the problem is whether the defendant can, as it claims, in its own discretion and arbitrarily, and without having to assign reasons, make an assessment of a probationary period with which the defendant could surely have dispensed if such probation were not itself intended to supply the reasons either for dismissal or for retention in employment.

The *defendant* replies that the three conditions mentioned above have not been fully met here, since the Administration decided in its discretion that the probationary period was not satisfactory, and this assessment cannot be called in question, even though the memoranda of 29 June and 3 July 1959 were not entirely unfavourable towards the applicant as regards her strictly professional abilities. Moreover, the defendant emphasizes that payment of the installation allowance can only be made to servants definitively employed by the Assembly, whereas no contract of employment was entered into with the applicant at the end of her probation.

IV — Procedure

The procedure followed the normal course. On 7 December 1960, the applicant lodged an application for legal aid at the Court Registry, which application was granted by order of the Second Chamber of the Court on 16 February 1961. The case was assigned to the First Chamber by decision of the Court dated 11 October 1961, and Judge Rossi remained as Rapporteur. On 10 November 1961, the First Chamber decided, on the basis of the Judge-Rapporteur's report and the opinion of the Advocate-General, to put certain questions to the parties. The replies to these questions were lodged by the applicant on 22 November 1961, and by the defendant on 1 December 1961.

Grounds of judgment

On the admissibility of the application

1. The European Parliamentary Assembly is an institution common to the three European Communities and as such is subject to the simultaneous application of the three Treaties.

Nevertheless, with regard to the basic texts applying to servants recruited between the time when the European Parliamentary Assembly took the

place of the old Common Assembly and the time of the entry into force of the Staff Regulations provided for in Article 212 of the EEC Treaty and in Article 186 of the EAEC Treaty, the European Parliamentary Assembly agreed to be governed by the so-called Brussels Rules, which are dependent on the two Treaties of Rome.

In these circumstances, the jurisdiction of the Court should be assessed solely on the basis of the provisions of the said Treaties.

By virtue of those provisions, and bearing in mind the principles laid down by the Court in Joined Cases 43, 45 and 48/59 and in Case 44/59, this jurisdiction is based on Articles 179 of the EEC Treaty and 152 of the EAEC Treaty, each of which provides that 'The Court of Justice shall have jurisdiction in any dispute between the Community and its servants within the limits and under the conditions laid down in the Staff Regulations or the Conditions of Employment.'

Accordingly, the Court has jurisdiction to hear the present dispute.

2. The applicant claims that the Court should both annul the decision of dismissal and order the Assembly to pay to the applicant:
(a) a sum of 60 000 Belgian francs by way of non-material damages;
(b) the installation allowance; and
(c) a sum equal to three months' salary in lieu of notice.

As far as the conclusions regarding annulment are concerned, the applicant stated in her application: 'The European Parliamentary Assembly is in breach of contract on the ground of the absence of reasoning in the disputed decision and, as termination of the contract has become final, the Assembly's liability must be discharged by way of damages.'

It follows from this statement that the conclusions in fact contemplate only compensation for the non-material damage suffered by the applicant.

Consequently, the question whether or not the present application is admissible from the point of view of limitation periods should be examined solely from the angle of the admissibility of an application for damages for breach of contract. No provision of the EEC Treaty or of the EAEC Treaty provides for a period of limitation for the making of such applications. In particular the limitation periods provided for in Article 43 of the Protocol on the Statute of the Court of Justice annexed to the EEC Treaty and in Article 44 of the Protocol on the Statute of the Court of Justice annexed to the EAEC Treaty do not apply in the present case for the simple reason that they concern non-contractual liability.

Since the Treaties are silent and there is no evidence allowing one to conclude that the applicant's delay in bringing the matter before the Court should be interpreted as a waiver of the right of action, one may conclude that the present proceedings are admissible from the point of view of limitation periods.

On the substance of the case

Irregularity of the decision of dismissal

1. The defendant maintains that the decision of dismissal was taken at the end of the applicant's probationary period. Consequently, the first question is whether the disputed contract required the said probationary period to be served.

The letter of appointment makes no mention of the existence of a probationary period; in the present case the serving of probation seems devoid of all point, since the disputed contract was of unlimited duration and terminable on a month's notice by either side; it was therefore lawful for the Administration to terminate the applicant's employment even in the first month, if it considered that she was not fulfilling the requirements of her employment.

Nevertheless, the defendant alleges that the completion of a period of probation was, in the present case, in conformity with the practice in force at the European Parliamentary Assembly. The applicant does not contradict the defendant on this point; nor does she deny having received, at the same time as her letter of appointment, document APE 926 relating to the refund of removal expenses and the installation allowance and providing that these benefits could be accorded to servants 'of at least two months' standing under a letter of employment of the Brussels type, and whose probation report was favourable'.

She does not contest either that she received communication 59/13 dated 12 March 1959, pointing out the necessity of a favourable probation report in order to be able to claim the installation allowance.

In these circumstances, there are grounds for concluding that the existence of a probationary period in the contractual relationship between the applicant and the European Parliamentary Assembly appears well established.

The defendant, in reply to Question No 2 put by the Court before the opening of the oral procedure, asserts that the length of such a probationary period was 'normally' two months, without going so far as to state the length of the probationary period which the applicant was in fact obliged to serve.

Nevertheless, since the applicant was engaged by letter dated 11 March 1959 and was dismissed by letter dated 3 July 1959, it follows that the defendant brought the probationary period to an end three months after the date of the letter of employment, taking into account two periods of sick leave of a total length of twenty-two days.

The applicant alleges in her application for legal aid that the contract was not terminated before 11 June 1959 — the end of the probationary period: she recognizes, therefore, that her period of probation was to end three months after the date of her appointment.

Even though the applicant does not take into account her two periods of sick leave mentioned above, she does not, at all events, deny having had them.

Consequently, there are grounds for admitting that in the present case the length of the probationary period applicable was three months.

2. The applicant maintains that the decision of dismissal contains no reasons and that, taking into account the departmental memoranda bearing on her probation, issued by the responsible authorities of the Assembly, this decision appears unjustified; according to the applicant, such a circumstance constitutes a breach of contract by the defendant rendering it liable.

The defendant, on the other hand, points out that the Administration's assessment is purely discretionary, and that, because of this, it is not bound to assign reasons for a decision of dismissal made at the end of the probationary period.

Moreover, it is maintained by the defendant that such an obligation would entail awkward consequences, not only for the Administration but also for the servant, since it would compel the former, should the occasion arise, to state unpleasant home truths with regard to the servant.

As was recognized by the Court in Joined Cases 43, 45 and 48/59 and in Case 44/59, the acts of an authority in the contractual as well as in the administrative field are always subject to the dictates of public interest; consequently every decision of dismissal must be based on reasons related to the interests of the service and must exclude anything of an arbitrary nature.

This requirement exists from the moment of the creation of a legal relationship between the Administration and its servants.

In consequence, it is not necessary in the present case to settle the question whether a decision of dismissal coming at the end of a period of probation of a servant recruited under the Brussels Rules should or should not state the reasons underlying it, because there are grounds for concluding that such a decision must, in any case, be founded on reasons valid in law.

The first months corresponding to a period of probation are intended to allow the party concerned to show his proficiency; at the end of this period the Administration must assess the ability and temperament of the probationer in his duties in order to determine whether he shows the necessary capabilities.

In the present case, the defendant produced at the hearing two departmental memoranda dated 29 June and 3 July 1959 emanating respectively from Miss Liliana Moggio, the applicant's immediate superior, and from Mr Émile Neujean, Director of General Services.

On the one hand, the memorandum from Miss Moggio expresses a favourable opinion of the probation completed by the applicant and, on the other hand, Mr Neujean states that 'an unfavourable assessment cannot be given by the General Service Department'. The first memorandum refers not only to the ability but also to the temperament of the applicant, remarking on her willingness and her desire to make herself useful — as well as on her 'valuable characteristics for establishing and maintaining the best relations with colleagues'.

In these circumstances one cannot fail to note that the sum total of these memoranda constitutes a general assessment of the ability of the applicant at the end of her probation, and that this assessment is equivalent to a probation report.

The defendant, on the other hand, maintains that the memorandum of the Director of General Services, which relies on that of the applicant's immediate superior, cannot be equated with the probation report provided for by the above-mentioned communication No 59/13.

In this respect the defendant points out that this is a technical memorandum: the real probation report can be made out only by the Secretary-General, and since the Secretary-General cannot address a report to himself, the decision of dismissal, even though given without reasons, should be regarded as equivalent to the report in question.

All the same, it is permissible to observe on this point that every probation report is normally made out by the head of the department to whom the

party concerned is answerable, in this case the Director of General Services, to whose department the applicant had been assigned. The report of the Director of General Services is favourable to the applicant.

It is undeniable that the appointing authority is always free to withhold approval of the probation report made out by the responsible authorities; however, as the Court has just established, it must base its dismissal decision on grounds valid in law; this obligation must be even more strictly interpreted when the decision of dismissal is in open contradiction with the probation assessment by the responsible authorities.

In the present case this contradiction, taken with the terms of the memorandum by Mr Neujean according to which 'an unfavourable assessment cannot be given' — terms which seem to indicate that a similar assessment was perhaps expected at a higher level — constitutes the beginnings of proof that this dismissal was based on grounds not valid in law. The defendant has not, as was incumbent on it, provided proof to the contrary; it has not, furthermore, explained the above contradiction either in its statements of defence or at the hearing.

Hence, the Court must conclude that it has not been sufficiently established in law that the impugned decision is founded on a ground valid in law. This omission has caused the applicant non-material damage for which the European Parliamentary Assembly is liable in contract.

This liability should, in the circumstances, be assessed in the light of the fact that the termination of the contract of service has become final, and the obligation of the defendant should be resolved in damages.

From the circumstances of this case, the Court derives principles of assessment which allow it to estimate the sum of those damages *ex aequo et bono* at 40 000 Belgian francs.

Payment of the installation allowance

Communication No 59/13 of the European Parliamentary Assembly, dated 12 March 1959, indicates that payment of the installation allowance is due when the following conditions are satisfied:

(a) a favourable probation report;
(b) a favourable medical examination; and
(c) proof of installation.

As far as the condition of a favourable probation report is concerned, it is permissible to interpret the provisions which prescribe it as meaning that

there should be not only a favourable probation report but also no decision of dismissal at the end of the probationary period. Indeed, the installation of a servant at the place where the institution is located, and consequently the allowance due, are only justified when the probation is followed by the continuation of the servant's employment.

But in this case the decision of dismissal is irregular by virtue of the fact that it is not based on reasons valid in law; such a decision could not, therefore, be taken into consideration in the refusal to pay the installation allowance. It is also undeniable that a favourable medical examination took place.

As far as the third condition is concerned, the defendant has formally declared in the oral procedure that the applicant had deposited with the European Parliamentary Assembly a one year tenancy agreement entered into on 8 May 1959 in Luxembourg. The fact that the date of this agreement is within the probationary period provides simple proof that the applicant ran a certain risk; it follows, therefore, from the existence of this agreement, that at the end of her probation the applicant had proved her installation.

Since the three abovementioned conditions have been fulfilled, the applicant has a right to payment of the installation allowance.

Payment of compensation for dismissal

The applicant maintains that the period of notice of one month, contained in the decision of dismissal, is manifestly inadequate, and that in this matter general principles of law, derived from the national laws which reflect them, are to be applied. From this point of view a period of notice of three months appears reasonable. Therefore, according to the applicant, the European Parliamentary Assembly should be ordered to pay to the applicant three months' salary in lieu of notice.

But in this case the period of notice of one month is the subject of a contractual clause contained in the letter of appointment and accepted by the applicant.

It is proper therefore to abide by this term unless the Court thinks either that it is patently unjust or onerous, or that the applicant did not freely consent to it.

Concerning the first point, the Court does not consider that such a period of notice is patently unjust or onerous in view of the fact that the contract of employment is one of an indeterminate period, determinable at any time by either side.

Concerning the second point, the applicant has not even alleged that she underwent any moral pressure in consenting to a period of notice of one month.

The applicant's conclusions on this point are, therefore, not well founded.

Costs

The applicant has made out her case as far as her conclusions on the principle points in dispute are concerned. Under Article 69 (2) of the Rules of Procedure, the defendant should be ordered to pay the costs.

On those grounds,

Upon reading the pleadings;
Upon hearing the report of the Judge-Rapporteur;
Upon hearing the parties;
Upon hearing the opinion of the Advocate-General;
Having regard to the Protocol on the Statute of the Court of Justice annexed to the Treaty establishing the European Economic Community and the Protocol on the Statute of the Court of Justice annexed to the Treaty establishing the European Atomic Energy Community;
Having regard to Articles 179, 212, 215, first paragraph, and 246 (3) of the Treaty establishing the European Economic Community and Articles 152, 186, 188, first paragraph, and 214 (3) of the Treaty establishing the European Atomic Energy Community;
Having regard to the Rules of Procedure of the Court of Justice of the European Communities;

THE COURT (First Chamber)

hereby:

1. **Rules that the present application for compensation is admissible;**

2. **Orders the European Parliamentary Assembly to pay to Mrs Leda De Bruyn the sum of 40 000 Belgian francs;**

3. **Orders the European Parliamentary Assembly to pay to Mrs Leda De Bruyn the prescribed amount of the installation allowance;**

4. Orders the European Parliamentary Assembly to pay the costs.

O. Riese L. Delvaux R. Rossi

Delivered in open court in Luxembourg on 1 March 1962.

A. Van Houtte
Registrar

O. Riese
President of the First Chamber

OPINION OF MR ADVOCATE-GENERAL LAGRANGE DELIVERED ON 14 DECEMBER 1961[1]

Mr President,
Members of the Court,

Mrs Leda De Bruyn, the wife of Mr Giorgio Cerioni, was engaged by the European Parliamentary Assembly on a temporary basis in the capacity of typist (Grade 3A) for the period from 11 February to 10 March 1959, under a 'temporary contract' dated 11 February 1959. The governing terms were those contained in a document entitled 'Conditions of Employment of Auxiliary Staff' which was duly applied by the administrative body of the Assembly and which was expressly incorporated into the contract.

On 11 March 1959, that is on the day following the expiry date of this temporary contract, the applicant put her signature to a 'letter of appointment' from the Secretary-General which informed her that the European Parliamentary Assembly was prepared to make use of her services 'on the conditions of remuneration hereunder'. (There followed a figure showing the total remuneration together with additional allowances). Then the following provision appeared: 'These arrangements may be terminated at any time by either party on one month's notice. This letter is without prejudice to the subsequent conclusion of a contract'.

That, as you are aware, is the legal basis of what, by common consent, is referred to as the 'Brussels Rules'. You are also aware that, in spite of the mandatory provisions of Article 246 (3) of the EEC Treaty and of Article 214 (3) of the Euratom Treaty, no 'contract of limited duration' has been concluded with newly recruited staff.

One cannot but be struck at the outset by the difference between the clarity of the legal position ensuing from the auxiliary staff contract and the vagueness in which, apparently intentionally, the so-called 'Brussels Rules' are couched.

One should not be surprised, therefore, that the application of these 'Rules', the substance of which moreover constitutes a contract (even though the letter of employment attempts to suggest the contrary), should be a fertile source of contention and difficulty as the case law of this Court testifies.

On 3 July 1959, Mrs De Bruyn found herself being given one month's notice (no reason being stated), and her employment due to end on the evening of 3 August.

On 14 July, she forwarded a complaint to the Secretary-General to which he never replied. The matter had, in fact,

1 — Translated from the French.