

Action brought on 13 December 2001 by the Commission of the European Communities against the French Republic

(Case C-484/01)

(2002/C 84/81)

An action against the French Republic was brought before the Court of Justice of the European Communities on 13 December 2001 by the Commission of the European Communities, represented by R. Tricot, acting as Agent, with an address for service in Luxembourg.

The Commission of the European Communities claims that the Court should:

- declare that, by failing to adopt the laws, regulations and administrative measures necessary in order to comply with Council Directive 97/43/Euratom of 30 June 1997 on health protection of individuals against the dangers of ionizing radiation in relation to medical exposure⁽¹⁾, or at any rate by failing to notify those measures to the Commission, the French Republic has failed to fulfil its obligations under Article 14 of that directive;
- order the French Republic to pay the costs.

Pleas in law and main arguments

The pleas in law and main arguments are similar to those advanced in Case C-389/01⁽²⁾; although the prescribed time-limit (13 May 2000) has expired, France has not yet adopted the majority of the provisions necessary in order to transpose the directive into national law.

⁽¹⁾ OJ L 180 of 9.7.1997, p. 22.

⁽²⁾ OJ C 348 of 8.12.2001, p. 16.

Appeal brought on 17 December 2001 by the Front National against the judgment of 2 October 2001 delivered by the Third Chamber of the Court of First Instance of the European Communities in Joined Cases T-222/99, T-327/99 and T-329/99 between J.C. Martinez and Ch. de Gaulle, the Front National, E. Bonino and Others and the European Parliament

(Case C-486/01 P)

(2002/C 84/82)

An appeal against the judgment delivered on 2 October 2001 by the Third Chamber of the Court of First Instance of the

European Communities in Joined Cases T-222/99, T-327/99 and T-329/99 between J.C. Martinez and Ch. de Gaulle, the Front National, E. Bonino and Others and the European Parliament was brought before the Court of Justice of the European Communities on 17 December 2001 by the Front National.

The appellant claims that the Court should:

- declare admissible the appeal brought by the Front National against the judgment of 2 October 2001 of the Court of First Instance of the European Communities,
- find that there has been an infringement of Community law by the Court of First Instance,
- quash the limbs and grounds of the contested judgment in whole or in part,
- rule in accordance with the law, set aside the contested judgment, or, in the alternative, remit the case to the Court of First Instance of the European Communities pursuant to Article 54 of the Statute of the Court of Justice,
- order the European Parliament to pay the whole of the costs.

Pleas in law and main arguments

- Error of law as regards the application of Article 29(1) of the Rules of Procedure of the European Parliament. The constitution of a parliamentary group united around a common idea, solidarity consisting in the search for a balance between the rights of all MEP's or parliamentarians, cannot be refused on the grounds of a lack of political affinity.
- Lack of legal basis on the review by the Parliament as to the conformity with Rule 29(1) of the 'Rules of Procedure of the Groupe Technique des Députés Indépendants' (TDI group); infringement of the principle of equal treatment and of the provisions of the rules: contrary to what is stated by the Court of First Instance, Rule 180 does not give the Parliament power to monitor the correct application and interpretation of its Rules of Procedure; that rule solely allows the European Parliament to refer a matter to the competent committee for its opinion. The fact of having adopted a joint position and of constituting a group in order to ensure that each MEP may exercise his parliamentary mandate in full constitutes political affinity for the purposes of Rule 29(1). Contrary to paragraph 122 of the judgment, different component parts of the TDI group lodged documents in association with each other on several occasions.
- Infringement of the principle of equal treatment with regard to members of the TDI group: while the Court of First Instance, in paragraph 165, seems to agree that there

is discrimination between MEP's who are members of a political group and non-attached MEP's, it refuses to accept that this unequal treatment is a ground for annulment of the contested measure. Even though an exception of the illegality of Rule 29(1) of the rules has not been raised by the applicants, it is nevertheless the case that the members of the TDI group suffer from discriminatory treatment in the light of the contested decision.

The Court of First Instance has not drawn the correct inferences from the abandonment by the European Parliament of its previous practice, nor from the unequal treatment imposed on the TDI group in comparison with the 'Groupe pour l'Europe des démocraties et des différences'. Lastly, the Court of First Instance could not reject the observations evidencing the political affinity of the TDI group, even though the facts relied on post-date the contested measure.

- Failure to observe the regulatory traditions common to the Member States: in refusing to draw the legal consequences from comparative law and to find discrimination by the measure at issue, the Court of First Instance fails to apply the rules and principles governing Community law.
- Infringement of essential procedural requirements: the scope of the contested measure is wider than that of interpretation of the rules.
- Presumption of misuse of procedure: the Court of First Instance fails to appreciate the reality of the misuse of procedure which may be inferred from various examples of amendments to the rules, clearly showing that there is indeed a desire on the part of the European Parliament to reduce systematically the rights of some of its members.

Appeal brought on 17 December 2001 by J.C. Martinez against the judgment of 2 October 2001 delivered by the Third Chamber of the Court of First Instance of the European Communities in Joined Cases T-222/99, T-327/99 and T-329/99 between J.C. Martinez and Ch. de Gaulle, the Front National, E. Bonino and Others and the European Parliament

(Case C-488/01 P)

(2002/C 84/83)

An appeal against the judgment delivered on 2 October 2001 by the Third Chamber of the Court of First Instance of the

European Communities in Joined Cases T-222/99, T-327/99 and T-329/99 between J.C. Martinez and Ch. de Gaulle, the Front National, E. Bonino and Others and the European Parliament was brought before the Court of Justice of the European Communities on 17 December 2001 by J.C. Martinez.

The appellant claims that the Court should:

- declare admissible the appeal brought by Mr Martinez against the judgment of 2 October 2001 of the Court of First Instance of the European Communities,
- find that there has been an infringement of Community law by the Court of First Instance,
- quash the limbs and grounds of the contested judgment in whole or in part,
- rule in accordance with the law, set aside the contested judgment, or, in the alternative, remit the case to the Court of First Instance of the European Communities pursuant to Article 54 of the Statute of the Court of Justice,
- order the European Parliament to pay the whole of the costs.

Pleas in law and main arguments

Four pleas are identical to the first four pleas submitted in Case C-486/01 P⁽¹⁾.

- Infringement of the principle of democracy: the Court of First Instance wrongly rejected this plea on the basis of a failure to raise an objection of illegality against the Parliament's Rules of Procedure.
- Infringement of the principle of freedom of association: the Court of First Instance does not show how the fact of making the constitution of a group of MEP's subject to a requirement of political affinities constitutes a legitimate ground if this maintains discrimination between non-attached MEP's and members of a constituted political group.

⁽¹⁾ See page 47 of this Official Journal.