

JUDGMENT OF THE COURT
1 October 1997 *

In Case C-345/95,

French Republic, represented by Marc Perrin de Brichambaut, Head of the Legal Directorate in the Ministry of Foreign Affairs, and Denys Wibaux, Foreign Affairs Secretary in the same Directorate, acting as Agents, with an address for service in Luxembourg at the French Embassy, 8B Boulevard Joseph II,

applicant,

supported by

Grand Duchy of Luxembourg, represented by Nicolas Schmit, Head of the International Economic Relations and Cooperation Directorate in the Ministry of Foreign Affairs, acting as Agent, with an address for service in Luxembourg at the Ministry of Foreign Affairs, 5 Rue Notre-Dame,

intervener,

v

European Parliament, represented by Gregorio Garzón Clariana, Jurisconsult, assisted by Christian Pennera, Head of Division, and Hans Krück, Principal Administrator in the Legal Service, acting as Agents, with an address for service in Luxembourg at the General Secretariat of the European Parliament, Kirchberg,

defendant,

* Language of the case: French.

APPLICATION for annulment of the vote of the European Parliament of 20 September 1995 adopting the calendar of part-sessions of the institution for 1996,

THE COURT,

composed of: G. C. Rodríguez Iglesias, President, G. F. Mancini, J. C. Moitinho de Almeida, J. L. Murray and L. Sevón (Presidents of Chambers), C. N. Kakouris, P. J. G. Kapteyn, C. Gulmann, D. A. O. Edward, J.-P. Puissochet, G. Hirsch, P. Jann, H. Ragnemalm (Rapporteur), M. Wathelet and R. Schintgen, Judges,

Advocate General: C. O. Lenz,
Registrar: H. von Holstein, Deputy Registrar,

having regard to the Report for the Hearing,

after hearing oral argument from the parties at the hearing on 3 December 1996, at which the French Republic was represented by Marc Perrin de Brichambaut and Pierre Voilery, Technical Adviser in the Legal Directorate of the Ministry of Foreign Affairs, acting as Agent, the Grand Duchy of Luxembourg by Georges Friden, Legation Secretary in the Ministry of Foreign Affairs, acting as Agent, and the European Parliament by Gregorio Garzón Clariana, Christian Pennera and Hans Krück,

after hearing the Opinion of the Advocate General at the sitting on 4 February 1997,

gives the following

Judgment

- 1 By application lodged at the Registry of the Court of Justice on 7 November 1995, the French Republic brought an action under Articles 38 of the ECSC Treaty, 173

of the EC Treaty and 146 of the EAEC Treaty, seeking annulment of the vote of the European Parliament of 20 September 1995 adopting the calendar of part-sessions of the institution for 1996 ('the contested vote').

- 2 On 12 December 1992, the representatives of the Governments of the Member States took a decision by common agreement on the location of the seats of the institutions and of certain bodies and departments of the European Communities, on the basis of Articles 216 of the EEC Treaty, 77 of the ECSC Treaty and 189 of the EAEC Treaty (OJ 1992 C 341, p. 1, 'the Edinburgh Decision').
- 3 Article 1(a) of that decision provides:

'The European Parliament shall have its seat in Strasbourg where the twelve periods of monthly plenary sessions, including the budget session, shall be held. The periods of additional plenary sessions shall be held in Brussels. The Committees of the European Parliament shall meet in Brussels. The General Secretariat of the European Parliament and its departments shall remain in Luxembourg.'

- 4 It appears from Rule 10 of the Parliament's Rules of Procedure (consolidated version of 7 December 1995, OJ 1995 L 293, p. 1) that the calendar of 'part-sessions', or 'plenary sessions', is established by determining the length of the adjournments of the annual session. A part-session is the meeting of Parliament convened as a rule each month and subdivided into daily sittings. In this way, the Parliament decides in plenary sitting the dates of adjournment and resumption of the annual session.
- 5 The calendar of part-sessions established by the Parliament indicates only the dates of the plenary part-sessions, without mentioning where the sittings are to be held. It is, however, common ground between the parties that plenary part-sessions extending from a Monday to a Friday are held in Strasbourg while those which, in principle, take place on successive half-days are held in Brussels.

- 6 The Parliament adopted its calendar of part-sessions for 1996 by the contested vote, recorded in the provisional minutes of the sitting.
- 7 The Conference of Presidents had decided to propose a calendar comprising 12 five-day periods, including two sessions in October 1996, one from 7 to 11 October and one from 21 to 25 October, and also eight part-sessions of two half-days.
- 8 However, following the adoption of amendment 9, tabled by Mrs Green on behalf of the PSE (Party of European Socialists) Group, the part-session from 7 to 11 October 1996 was deleted, with the result that 11 plenary part-sessions were to be held in Strasbourg in 1996.
- 9 Objections were raised to that calendar as being incompatible with Community law, and in particular with the Edinburgh Decision, by the French Permanent Representative at the Coreper meeting on 27 September 1995, by the French delegation in the Council on 2 October 1995 and in two letters addressed to Klaus Hänsch, President of the Parliament, one by Jacques Chirac, President of the French Republic, on 28 September 1995 and the other by Michel Barnier, Minister Delegate for European Affairs, on 27 September 1995.
- 10 Those objections having produced no result, the French Republic brought the present action.
- 11 By order of 7 March 1996, the President of the Court of Justice granted the Grand Duchy of Luxembourg leave to intervene in support of the form of order sought by the applicant.
- 12 In support of its application, the French Government puts forward three pleas in law: infringement of the Edinburgh Decision, breach of essential procedural requirements and infringement of Article 190 of the EC Treaty.

The first plea

- 13 In its first plea, the French Government, supported by the Luxembourg Government, submits essentially that the purpose of the Edinburgh Decision is to determine the seat of the European Parliament and clarify what is meant by that term, while maintaining several places of work for that institution. That decision thus defines the seat of the Parliament as being the place where it holds its main plenary sittings, at the same time establishing that a minimum of 12 monthly plenary part-sessions must be held in Strasbourg. The Governments of the Member States considered that, below that threshold, the decision to locate the seat of the Parliament in Strasbourg would not be effective.
- 14 In the French Government's submission, the Parliament, by deciding that 11 plenary part-sessions should be held in Strasbourg, and eight additional part-sessions in Brussels, in 1996, deprived the Edinburgh Decision of its substance. That decision, the fruit of a political compromise binding on both the Member States and the institutions, laid a strict obligation on the Parliament to hold 12 plenary part-sessions in Strasbourg, where its seat is located.
- 15 The French Government does not deny that the Parliament may refrain from holding monthly plenary sittings during its summer recess or during the electoral campaign in election years. It appears to argue, however, that if such be the case, the Parliament should schedule an additional plenary part-session in Strasbourg during another month.
- 16 The French Government adds that the Parliament's power to determine its own internal organization, given to it by Articles 25 of the ECSC Treaty, 142 of the EC Treaty and 112 of the EAEC Treaty, cannot be extended to allow it to establish a calendar of part-sessions which conflicts with the political compromise embodied in the Edinburgh Decision.

- 17 In its defence, the Parliament objects that the Edinburgh Decision is itself partly invalid. By directly interfering with the power to determine its own internal organization which the Court has recognized it possesses on the basis of Article 142 of the EC Treaty, that decision exceeds the limits of the competence conferred on the Member States by Article 216 of that Treaty.
- 18 The Parliament further submits that the Edinburgh Decision, which is couched in ambiguous terms, must be interpreted as meaning that a plenary part-session must in principle be held in Strasbourg every month, with the exception of August and, in election years, June.
- 19 It is to be noted, at the outset, that by virtue of Articles 77 of the ECSC Treaty, 216 of the EC Treaty and 189 of the EAEC Treaty, the seat of the institutions of the Community is to be determined by common accord of the Governments of the Member States.
- 20 The Governments of the Member States are therefore made responsible for supplementing the system of institutional provisions provided for by the Treaties in order to ensure the working of the Communities. They have not only the right but also the duty to exercise that competence (Case 230/81 *Luxembourg v Parliament* [1983] ECR 255, paragraph 35).
- 21 The Governments of the Member States have thus adopted decisions concerning the provisional places of work of the institutions on a number of occasions prior to the adoption of the Edinburgh Decision. In Joined Cases C-213/88 and C-39/89 *Luxembourg v Parliament* [1991] ECR I-5643, paragraph 52, the Court nevertheless held that the Governments of the Member States had not yet, at that time, discharged their obligation to determine the final seat of the institutions in accordance with the abovementioned provisions of the Treaties.

- 22 That is the context surrounding the adoption of the Edinburgh Decision, Article 1(a) of which provides that the European Parliament is to have its seat in Strasbourg where the 12 periods of monthly plenary sessions, including the budget session, are to be held.
- 23 By adopting the Edinburgh Decision, therefore, the Governments of the Member States have now discharged their obligation under Articles 77 of the ECSC Treaty, 216 of the EC Treaty and 189 of the EAEC Treaty by definitively locating the seat of the Parliament in Strasbourg, whilst maintaining several places of work for that institution.
- 24 Given a plurality of working places, the exercise of that competence involved not only the obligation to determine the location of the seat of the Parliament but also the implied power to give precision to that term by indicating the activities which must take place there.
- 25 The intention of the Governments of the Member States was therefore to provide that the seat of the Parliament, in Strasbourg, be the principal place where it meets in ordinary plenary sitting, and to that end to specify the mandatory number of part-sessions which must be held there.
- 26 By indicating that the Parliament must hold monthly plenary part-sessions, the Governments of the Member States endorsed its practice of meeting in principle every month in Strasbourg, as indeed is provided by Rule 10 of its Rules of Procedure.
- 27 In fact, however, the Parliament does not hold any ordinary plenary part-sessions in August or, during election years, in June. In the years during which it has held a total of 12 plenary part-sessions in Strasbourg, two have been scheduled in October. That practice is not, in itself, in issue.

- 28 Furthermore, by specifying that the budget session is to be held in Strasbourg, the Governments of the Member States intended that the Parliament exercise its budgetary powers in plenary sitting, in accordance with Article 203 of the EC Treaty, during one of the ordinary plenary part-sessions held at the seat of the institution.
- 29 The Edinburgh Decision must thus be interpreted as defining the seat of the Parliament as the place where 12 ordinary plenary part-sessions must take place on a regular basis, including those during which the Parliament is to exercise the budgetary powers conferred upon it by the Treaty. Additional plenary part-sessions cannot therefore be scheduled for any other place of work unless the Parliament holds the 12 ordinary plenary part-sessions in Strasbourg, where it has its seat.
- 30 Contrary to the Parliament's contention, the Governments of the Member States have not, by so defining its seat, encroached upon the power of the Parliament to determine its own internal organization, conferred by Articles 25 of the ECSC Treaty, 142 of the EC Treaty and 112 of the EAEC Treaty.
- 31 Whilst the Parliament is authorized, under that power of internal organization, to take appropriate measures to ensure the proper functioning and conduct of its proceedings, its decisions in that regard must respect the competence of the Governments of the Member States to determine the seat of the institutions (Case 230/81, cited above, paragraph 38, and Joined Cases C-213/88 and C-39/89, cited above, paragraph 29).
- 32 The Court has also held that the Member States have the duty, in exercising their competence to determine the seat of the institutions, to respect the Parliament's power to determine its own internal organization and to ensure that such decisions do not stand in the way of the proper functioning of that institution (Joined Cases 358/85 and 51/86 *France v Parliament* [1988] ECR 4821, paragraph 35). Whilst it is true that the Edinburgh Decision does place certain constraints on the Parliament

as regards the organization of its work, those constraints are inherent in the need to determine its seat while maintaining several places of work for the institution. Nor do they conflict with the practice generally followed by the Parliament.

- 33 That finding is not called into question by the need for the Parliament to refrain from holding ordinary plenary part-sessions during electoral campaigns, thus derogating every five years from its obligation to hold 12 ordinary plenary part-sessions at the seat of the institution. That derogation is justified for reasons inherent in the organization of elections for new representatives.
- 34 It follows that the contested vote is incompatible with the Edinburgh Decision to the extent that it provides for 11 ordinary plenary part-sessions in Strasbourg in 1996.
- 35 Consequently, it being unnecessary to examine the other pleas in law put forward in the application, the vote of the European Parliament of 20 September 1995 adopting the calendar of part-sessions of the institution for 1996 must be annulled to the extent that it does not provide for 12 ordinary plenary part-sessions in Strasbourg in 1996.

Costs

- 36 Under Article 69(2) of the Rules of Procedure, the unsuccessful party is to be ordered to pay the costs. Since the Parliament has been unsuccessful and the French Republic has applied for costs, the Parliament must be ordered to pay the costs. Pursuant to the first subparagraph of Article 69(4), the Grand Duchy of Luxembourg, which intervened in the proceedings, must bear its own costs.

On those grounds,

THE COURT

hereby:

1. Annuls the vote of the European Parliament of 20 September 1995 adopting the calendar of part-sessions of the institution for 1996 to the extent that it does not provide for 12 ordinary plenary part-sessions in Strasbourg in 1996;
2. Orders the Parliament to pay the costs;
3. Orders the Grand Duchy of Luxembourg to bear its own costs.

Rodríguez Iglesias

Mancini

Moitinho de Almeida

Murray

Sevón

Kakouris

Kapteyn

Gulmann

Edward

Puissochet

Hirsch

Jann

Ragnemalm

Wathelet

Schintgen

Delivered in open court in Luxembourg on 1 October 1997.

R. Grass

G. C. Rodríguez Iglesias

Registrar

President