ORDER OF THE COURT

13 January 1995 *

In Case C-264/94 P,

Jacques Bonnamy, of Bois d'Arcy (France), represented by Pierre Alt, of the Sarreguemines Bar, 4 Rue du Palais, 57204 Sarreguemines,

appellant,

APPEAL against the order of the Court of First Instance of the European Communities (Second Chamber) of 14 July 1994 in Case T-179/94 *Bonnamy* v *Council* (not published in the European Court Reports), seeking to have that order set aside,

THE COURT,

composed of: G. C. Rodríguez Iglesias, President, F. A. Schockweiler, P. J. G. Kapteyn and C. Gulmann (Presidents of Chambers), G. F. Mancini, C. N. Kakouris, J. C. Moitinho de Almeida, J. L. Murray, D. A. O. Edward (Rapporteur), A. M. La Pergola and J.-P. Puissochet, Judges,

Advocate General: G. Tesauro,
Registrar: R. Grass,

* Language of the case: French.

after hearing the Advocate General,

makes the following

Order

1 By application lodged at the Court Registry on 21 September 1994, Mr Bonnamy brought an appeal under Article 49 of the EEC Statute of the Court of Justice against the order of 14 July 1994 in Case T-179/94 *Bonnamy* v *Council* (not published in the European Court Reports) in which the Court of First Instance rejected as inadmissible his action under Article 173 of the EC Treaty.

2 It is apparent from the order of the Court of First Instance that the action was for:

— a finding that the declaration of the European Council of 29 October 1993 purporting to inform the citizens of the European Economic Community that the Treaty on European Union was to enter into force on 1 November 1993 was 'absolutely non-existent' or at least void;

— a finding that the Treaty on European Union in the version of 7 February 1992 and the Treaty on European Union as amended by the declarations of Denmark were void.

3 The application was notified to the Council of the European Union by the Registrar of the Court of First Instance. Following that notification, the Council of the

European Union raised an objection of inadmissibility under Article 114 of the Rules of Procedure of the Court of First Instance. The Court of First Instance made an order without opening the oral procedure.

4 In so far as concerns, first, the claim for a finding that the declaration of the European Council is non-existent or void, the Court of First Instance observed that acts of the European Council were not mentioned by the first paragraph of Article 173 of the Treaty as being subject to review by the Community judicature. The Court of First Instance further found that Article 31 of the Single European Act, which was in force when the contested declaration was adopted, expressly excluded the application to the European Council of the provisions of the EEC Treaty concerning the jurisdiction of the Community judicature and that the exclusion was maintained by Article L of the Treaty on European Union.

5 On the basis of those considerations the Court of First Instance concluded that it had no jurisdiction to review the legality of the European Council's declaration.

6 In so far as concerns, secondly, the claim for a finding that the Treaty on European Union is void, the Court of First Instance held that this Treaty was not an act of a Community institution within the meaning of Articles 4 and 173 of the Treaty and that, consequently, it had no jurisdiction to examine the legality of its provisions.

7 The Court of First Instance ordered the applicant to pay the costs in their entirety, including those of the Council of the European Union.

8 In his appeal, the appellant claims, in essence, that the order appealed against is vitiated by errors of law as regards the finding of inadmissibility and the order that

the applicant should pay the costs in their entirety, including those of the Council of the European Union.

9 As regards the finding of inadmissibility, the appellant claims that the Court of First Instance disregarded the judgment of the Court of Justice in Case 294/83 *Les Verts* v *Parliament* [1986] ECR 1339, Articles 31 and 2 of the Single European Act, Article 6 of the European Convention for the Protection of Human Rights and Fundamental Freedoms and Articles 111, 115 and 116 of the Rules of Procedure of the Court of First Instance.

10 Under Article 119 of the Rules of Procedure of the Court of Justice: 'Where the appeal is, in whole or in part, clearly inadmissible or clearly unfounded, the Court may at any time, acting on a report from the Judge-Rapporteur and after hearing the Advocate General, by reasoned order dismiss the appeal in whole or in part.'

11 As the Court of First Instance has held, neither the declaration of the European Council nor the Treaty on European Union is an act whose legality is subject to review under Article 173 of the Treaty and hence the appeal brought by the appellant against the finding of inadmissibility is clearly unfounded.

12 In his appeal, the appellant also challenges the order for costs against him made by the Court of First Instance. In particular, he considers that in its order the Court of First Instance was wrong to consider the Council of the European Union to be the defendant when in fact his action was against the European Council.

13 Under the second paragraph of Article 51 of the Statute of the Court of Justice: 'No appeal shall lie regarding only the amount of the costs or the party ordered to pay them.'

14 Since all the other pleas in law made by the appellant have been dismissed, the plea on costs must, pursuant to that provision, be dismissed as inadmissible.

15 The appeal should therefore be dismissed in its entirety.

Costs

16 No application having been made for costs, the appellant is to bear his own costs pursuant to Article 69 of the Rules of Procedure.

On those grounds,

THE COURT

hereby orders:

1. The appeal is dismissed.

2. The appellant shall bear his own costs.

Luxembourg, 13 January 1995.

R. Grass

Registrar

G. C. Rodríguez Iglesias

President