Case 358/85

French Republic
v
European Parliament

(Intervention)

Summary

Procedure — Intervention — Action challenging a measure adopted by an institution — Intervention by a member of the defendant institution — Inadmissible
(Statute of the Court of Justice of the ECSC, Art. 34, first paragraph)

Where an action is directed against a measure adopted by an institution, the system of remedies established by the Treaties requires that the institution concerned defend the validity of its measure before the Court and it is also for that institution to decide itself how to defend its interests in that regard. It would be incompatible with that system to accept the existence of a right to intervene by persons acting solely in their capacity as members of the institution concerned.

ORDER OF THE COURT
3 July 1986 *

In Case 358/85

French Republic, represented by Roland Dumas, Minister for Foreign Relations, acting in the name of the French Government, with an address for service in Luxembourg at the French Embassy, 9 boulevard Prince-Henri,

applicant,

* Language of the Case: French.

v

European Parliament, represented by F. Pasetti Bombardella, Jurisconsult at the European Parliament, assisted by C. Pennera, Principal Administrator, acting as Agents, with an address for service in Luxembourg at the Secretariat of the European Parliament, Kirchberg,

defendant,

APPLICATION, under Article 38 of the ECSC Treaty, and in the alternative under the first paragraph of Article 173 of the EEC Treaty and the first paragraph of Article 146 of the EAEC Treaty, for a declaration that the resolution of the European Parliament of 24 October 1985 on the infrastructure necessary for holding meetings in Brussels is void,

THE COURT

composed of: Lord Mackenzie Stuart, President, T. Koopmans, U. Everling, K. Bahlmann and R. Joliet (Presidents of Chambers), G. Bosco, O. Due, C. Kakouris, T. F. O'Higgins, F. Schockweiler and J. C. Carvalho Moitinho de Almeida, Judges,

Advocate General: G. F. Mancini
Registrar: P. Heim

after hearing the Opinion of the Advocate General,

makes the following

ORDER

1 By an application lodged at the Court Registry on 2 April 1986, T. von der Vring, R. Chanterie, A. Bonaccini, P. N. Price and G. M. de Vries, Members of the European Parliament, represented by Alan Tyrrell QC, of Gray's Inn, instructed by Peter Price, solicitor of the Supreme Court of England and Wales, with an address for service in Luxembourg at the Chambers of Stanbrook and Hooper, 7 Val-Sainte-Croix, 1371 Luxembourg, applied to intervene in this case in support of the defendant's conclusions.

2 The application to intervene, submitted pursuant to the first paragraph of Article 34 of the Protocol on the Statute of the Court of Justice of the European Coal and Steel Community, was made in accordance with Article 93 (1) and (2) of the Rules of Procedure.

3 The application to intervene was served on the parties to the main action in accordance with the provisions of Article 93 (3) of the Rules of Procedure.

4 In a memorandum lodged at the Court Registry on 23 May 1986, the French Government asked the Court to dismiss the application. The Parliament did not submit observations on the application within the prescribed time-limit.

5 The interveners claim that both as the authors, with 30 other Members of the Parliament, of the motion for a resolution at issue and as elected Members of the European Parliament, they have a common, direct and specific interest in the resolution of the dispute. They point out that the purpose of their motion is to improve their working conditions and those of the Parliament. Referring to the judgments of the Court of 10 February 1983 (Case 230/81 *Luxembourg* v *Parliament* [1983] ECR 255) and 10 April 1984 (Case 108/83 *Luxembourg* v *Parliament* [1984] ECR 1945), the five applicants note that in those cases, the Parliament did not touch upon certain fundamental issues which, unless they intervened, were likely once again not to be raised, with the effect that the decision in this case could aggravate their position.

6 The French Government contends, in particular, that the Members of the Parliament have no direct and specific interest in intervening in the case. That government considers that the interest relied upon by the applicants, in so far as it exists and is well founded, cannot be other than the interest of the Parliament itself.

7 According to the first paragraph of Article 34 of the Protocol of the Statute of the Court of Justice of the European Coal and Steel Community, the right to intervene is granted to any person 'establishing an interest in the result of any case submitted to the Court'.

8 The existence of such an interest must be determined in the light of the purpose of the action which, in this case, seeks a declaration that the resolution of the Parliament of 24 October 1985 on the infrastructure necessary for holding meetings in Brussels is void.

9 Since the action is directed against a measure adopted by an institution, the system of remedies established by the Treaties requires that the institution concerned defend the validity of its measure before the Court and it is also for that institution to decide itself how to defend its interests in that regard. It would be incompatible with that system to accept the existence of a right to intervene by persons acting solely in their capacity as members of the institution concerned.

10 All the interests relied upon by the applicants are based exclusively on their capacity as Members of the Parliament. It follows that the applicants have not proved the existence of a sufficiently well-defined interest to justify intervening in the dispute.

11 For those reasons, the application to intervene must be dismissed.

On those grounds,

THE COURT

hereby:

(1) Dismisses the application to intervene submitted by T. von der Vring, R. Chanterie, A. Bonaccini, P. N. Price and G. M. de Vries;

(2) Orders the applicants for the right to intervene to pay the costs of the intervention procedure.

Luxembourg, 3 July 1986.

P. Heim
Registrar

A. J. Mackenzie Stuart
President