ORDER OF THE COURT OF FIRST INSTANCE (Third Chamber)

13 December 2007 *

In Case T-215/07,

Beniamino Donnici, residing in Castrolibero (Italy), represented by M. Sanino, G.M. Roberti, I. Perego and P. Salvatore, lawyers,

applicant,

v

European Parliament, represented by H. Krück, N. Lorenz and L. Visaggio, acting as Agents,

defendant,

APPLICATION for annulment of the decision of the European Parliament of 24 May 2007 on the verification of the credentials of Beniamino Donnici (2007/2121 (REG)), declaring his mandate as a member of the European Parliament to be invalid,

* Language of the case: Italian.

THE COURT OF FIRST INSTANCE
OF THE EUROPEAN COMMUNITIES (Third Chamber),

composed of J. Azizi, President, E. Cremona and S. Frimodt Nielsen (Rapporteur), Judges,

Registrar: E. Coulon,

makes the following

Order

1 By an application lodged at the Registry of the Court of the First Instance on 22 June 2007, registered as Case T-215/07, Mr Donnici brought an action for annulment of the decision of the European Parliament of 24 May 2007 on the verification of his credentials, (2007/2121 (REG)) declaring invalid his mandate as a member of the European Parliament ('the contested decision').

2 By a separate document lodged on the same day, Mr Donnici applied for suspension of the operation of the contested decision. The judge hearing the application for interim measures granted that application by the order in Case T-215/07 R *Donnici* v *Parliament* [2007] ECR II-4673 and suspended the operation of the contested decision.

3 By application lodged at the Registry of the Court on 9 August 2007, registered as Case C-393/07, the Italian Republic brought an application for annulment of the contested decision.

4 Pursuant to the third paragraph of Article 54 of the Statute of the Court of Justice, where the Court of Justice and the Court of First Instance are seised of cases in which the same relief is sought, the same issue of interpretation is raised or the validity of the same act is called in question, the Court of First Instance may, after hearing the parties, stay the proceedings before it until such time as the Court of Justice has delivered judgment or, if the actions have been brought pursuant to Article 230 EC, decline jurisdiction so that the Court of Justice may rule on those applications. In the same circumstances, the Court of Justice may also decide to stay the proceedings before it; in that event, the proceedings before the Court of First Instance shall continue.

5 In the present case, the actions brought before the Court of Justice and the Court of First Instance both concern an application for annulment of the same decision.

6 It must be noted that the Court has not stayed the proceedings before it in Case C-393/07 pursuant to the third paragraph Article 54 of the Statute of the Court of Justice. It is therefore for the Court of First Instance to take a decision on whether the proceedings should be stayed or whether it should decline jurisdiction in the present case.

7 In accordance with the third paragraph of Article 54 of the Statute of the Court of Justice, the parties have been requested, by a letter from the Registrar of the Court of First Instance of 25 October 2007, to submit observations on the possibility of the Court of First Instance declining jurisdiction so that the Court of Justice can rule simultaneously on both applications for annulment, or staying the proceedings pending before the Court of First Instance until the Court of Justice has delivered judgment.

8 The Parliament stated that it was in favour of the Court of First Instance declining jurisdiction. Mr Donnici, for his part, opposed both a stay of proceedings and the Court of First Instance's declining jurisdiction, stating that he was in favour of the proceedings being continued before the Court of First Instance in order, he submitted, to ensure that the principle of two levels of jurisdiction and the right to be heard were observed.

9 In that connection, it must be pointed out that the second paragraph of Article 40 of the Statute of the Court of Justice gives no right of intervention to natural or legal persons in cases before the Court between Member States, on the one hand, and institutions of the Community, on the other hand. The only possibility for natural or legal persons to put forward their pleas in law and arguments in disputes which concern them is therefore to bring an action themselves, in cases in which they have standing to do so, before the competent court (orders of the Court of First Instance in Case T-41/97 *Antillean Rice Mills* v *Council* [1998] ECR II-4117, paragraph 6, and Case T-140/03 *Forum 187* v *Commission* [2003] ECR II-2069, paragraph 7).

10 In so far as the Court has not stayed the proceedings before it in Case C-393/07 and it is open to the Court of First Instance either to stay proceedings or decline jurisdiction in Case T-215/07, it is in the interest of the proper administration of justice and of safeguarding the rights of the defence of individuals that the court with jurisdiction to hear and determine the action brought by a Member State should be able to take into consideration the various pleas in law and arguments of fact and law relied on by natural and legal persons in support of their applications for annulment of the same act.

11 In the present case, a stay of the proceedings before the Court of First Instance until such time as the Court of Justice has given judgment in respect of the contested decision would not allow the Court of Justice to examine the pleas and arguments put forward by Mr Donnici in support of his application for annulment of the same act.

12 Accordingly, pursuant to the third paragraph of Article 54 of the Statute of the Court of Justice and Article 80 of the Rules of Procedure of the Court of First Instance, it is appropriate to decline jurisdiction in favour of the Court of Justice in order to enable the latter to give judgment on the application for annulment.

On those grounds,

THE COURT OF FIRST INSTANCE (Third Chamber)

hereby orders:

1. **The Court of First Instance declines jurisdiction in Case T-215/07 in favour of the Court of Justice in order to enable the latter to rule on the application for annulment.**

2. **The costs are reserved.**

Luxembourg, 13 December 2007.

E. Coulon — Registrar

J. Azizi — President