

Case 294/83

Parti écologiste 'Les Verts'

v

European Parliament

(Action for annulment — Information campaign
for the elections to the European Parliament)

Summary

1. *Procedure — Continuance of proceedings*
2. *Action for annulment — Article 173 of the EEC Treaty — Measures against which actions may be brought — Measures of the Parliament intended to have legal effects vis-à-vis third parties*
(EEC Treaty, Arts 164 and 173)
3. *Action for annulment — Court of Auditors' review of the legality of expenditure — Scope*
(EEC Treaty, Arts 173 and 206a)
4. *Action for annulment — Natural or legal persons — Measures of direct and individual concern to them — Political groupings not represented in the Parliament but able to take part in the European elections — Measures adopted by the Parliament for the purpose of allocating appropriations intended to finance the pre-election information campaign*
(EEC Treaty, Art. 173, second paragraph)
5. *European Parliament — Powers — Creation of a scheme providing for reimbursement of expenses incurred in connection with the campaign for the European elections — Encroachment upon the powers of the Member States — Unlawful*
(Act concerning the election of the representatives of the Assembly by direct universal suffrage of 20 September 1976, Article 7 (2))

1. Where an association, the applicant in proceedings before the Court, merges into a new association which is itself a legal person and transmits to it, among its rights and obligations, the benefit of the action that it has brought and where

the new association manifests an intention to continue the action, that action may not be declared inadmissible on the ground that the new association does not have the capacity to continue the proceedings.

2. An interpretation of Article 173 of the Treaty which excluded measures adopted by the European Parliament from those which could be contested by means of an action for annulment would lead to a result contrary both to the spirit of the Treaty as expressed in Article 164 and to its scheme, which is to make a direct action available against all measures adopted by the institutions which are intended to have legal effects. Measures adopted by the European Parliament in the context of the EEC Treaty could encroach on the powers of the Member States or of the other institutions, or exceed the limits which have been set to the Parliament's powers, without its being possible to refer them for review by the Court. It must therefore be concluded that an action for annulment may lie against measures adopted by the European Parliament intended to have legal effects *vis-à-vis* third parties.

Such is the case in regard to the measures adopted by the European Parliament for the purpose of allocating the appropriations entered in its budget to cover the preparations for the election of its members by direct universal suffrage, since those measures have legal effects *vis-à-vis* both political groupings already represented in the Parliament at the time of their adoption and those not so represented but able to take part in those elections.

3. The Court of Auditors' review under Article 206a of the Treaty relates to the

legality of expenditure with reference to the budget and the secondary provision on which the expenditure is based (commonly called 'the basic measure'). Its review is thus distinct from that exercised by the Court of Justice, which concerns the legality of the basic measure.

4. A political grouping which, unlike its rivals, is not represented in the European Parliament but which is able to put up candidates in the direct elections to the Parliament must, in order to avoid inequality in the protection afforded by the Court to groupings competing in the same elections, be regarded as being both directly and individually concerned, within the meaning of the second paragraph of Article 173 of the Treaty, by measures adopted by the Parliament for the purpose of allocating appropriations entered in its budget for the financing of the information campaign preceding those elections, notwithstanding the fact that it could not be identified when the measures concerned were adopted.
5. A scheme set up by the European Parliament for financing the information campaign preceding the European elections which cannot be distinguished from a scheme providing for flat-rate reimbursement of election campaign expenses infringes Article 7 (2) of the Act concerning the election of the representatives of the Assembly by direct universal suffrage and is therefore unlawful, since it encroaches upon powers which, by virtue of that provision, are retained by the Member States.