

**CFI (Court of First Instance), Judgement of 2 October 2001,
Martinez and De Gaulle v. European Parliament, case T-222/99, T-327/99 and T-
329/99, (excerpts)**

(...)

150 Next, it should be emphasised that, under the case-law, the principle of non-discrimination, which constitutes a fundamental principle of law, prohibits comparable situations from being treated differently or different situations from being treated in the same way, unless such difference in treatment is objectively justified (see, for instance, Case C-174/89 Hoche [1990] ECR I-2681, paragraph 25, and the case-law cited).

151 In the present case the Members of the Parliament all have a mandate bestowed on them democratically by the electorate and all assume the same task of political representation at European level (see paragraph 61 above). In that respect they are all in the same situation.

152 It is certainly the case that Rule 29(1) in conjunction with Rule 30 introduces a distinction between two categories of Members, those belonging to a political group within the meaning of the Parliament's internal rules and those who sit as non-attached Members under the conditions laid down by the Bureau of the Parliament. That distinction is justified, however, by the fact that the former satisfy, unlike the latter, a requirement under the Rules of Procedure dictated by the pursuit of legitimate objectives (see paragraphs 145 to 149 above).

153 Accordingly, such a distinction cannot be held to constitute an infringement of the principle of non-discrimination as defined in the case-law (see paragraph 150 above).

154 In their pleadings the applicants claim in support of their arguments that non-attached Members under Rule 30 of the Rules of Procedure are discriminated against compared with members of political groups. They identify a number of differences in treatment applied in regard to parliamentary rights and financial, administrative and material benefits as between non-attached Members and members of political groups, which they say amount to unlawful discrimination.

155 However, it appears from the parties' pleadings and the documents produced by them at the request of the Court that those differences in treatment, which are not disputed by the Parliament, stem not from the combined provisions of Rule 29(1) and Rule 30 of the Rules of Procedure, but from a series of other internal provisions of the Parliament.

156 Thus:

- the denial to the two representatives of the non-attached Members at the conference of presidents of the voting rights enjoyed by the chairmen of the political groups or their representatives stems from Rule 23;

- the fact that the non-attached Members, unlike the political groups, may not table a motion for a resolution at the conclusion of the debate on the election of the Commission stems from Rule 33;

- the fact that non-attached Members are excluded from the work of the Parliament's delegation to the Conciliation Committee, whilst the political groups are represented either in that delegation or in the latter's internal preparatory meetings stems from Rule 82;

- the fact that a non-attached Member can enjoy the benefit of the parliamentary privileges conferred on the political groups only with the support of 31 other Members stems from the various provisions of the Rules of Procedure identified at paragraph 4 above;

- the fact that non-attached Members of the same political tendency, unlike the political groups, do not have the right to explain their collective position on a final vote stems from Rule 137;

- the fact that the non-attached Members are not taken into consideration on allocating the offices of President of the Parliament and of Quaestor, President and Vice-President of Committees and interparliamentary delegations mentioned in Chapters XX and XXI of the Rules of Procedure, that they are taken into consideration on a secondary basis for the allocation of posts of members of those committees and delegations and that they are excluded from the ad hoc delegations established by the Conference of Presidents and the delegation to the Conference of European Affairs Committees referred to in Rule 56 of the Rules of Procedure stems from application of the D'Hondt method used by the Parliament for allotting the abovementioned posts, and from the fact that the representatives of the non-attached Members sitting on the Conference of Presidents, the competent body in that regard, do not have a right to vote;

- the difference of treatment applied as between non-attached Members and political groups in terms of secretarial staff is the result of decisions by the Bureau of the Parliament adopted under Rule 22;

- the different treatment accorded to non-attached Members and to political groups in regard to the allocation of credits under budget item 3707 on specific expenditure of the Parliament for secretarial costs, administrative and operating costs and costs in connection with the political activities of the political groups and non-attached Members stems from decisions of the Bureau of the Parliament adopted under Rule 22;

- the fact that non-attached Members, unlike the political groups, are excluded from the benefit of services provided by the Parliament, particularly in regard to simultaneous interpretation, is the consequence of the Parliament's administrative rules concerning meetings of the political groups.

157 It is of course for the Parliament to determine whether the situation arising from application of the various internal provisions identified in the previous paragraph is in all respects in conformity with the principle of equal treatment as defined in the case-law (see paragraph 150 above). In that connection it should be emphasised that, although the attainment of the legitimate objectives pursued by the Parliament

by means of its organisation in political groups justifies the fact that those groups, and thus the Members belonging to them, enjoy certain privileges and facilities denied to non-attached Members, it is for the Parliament to examine under the relevant internal procedures whether the differences in treatment as between those two categories of Member stemming from the abovementioned internal provisions are all necessary and thus objectively justified in the light of the abovementioned objectives. If appropriate, it will be for the Parliament under its power of internal organisation to remedy the inequalities inherent in those provisions which do not satisfy that requirement of necessity and which might consequently be held to be discriminatory on review by the Community judicature of acts of the Parliament adopted under those provisions (see paragraphs 48 to 62 above).

(...)