

1999/51/EC<sup>(1)</sup> of 26 May 1999 adapting to technical progress for the fifth time Annex I to Council Directive 76/769/EEC<sup>(2)</sup> on the approximation of the laws, regulations, and administrative provisions of the Member States relating to restrictions on the marketing and use of certain dangerous substances and preparations (tin, PCP and cadmium).'

The case concerned the Swedish and Austrian exemptions from the use of cadmium and its compounds as colourants, stabilisers and for surface treatment (cadmium plating).

What will happen now to the Swedish and Austrian exemptions in this area? How does the Commission intend to deal with this matter subsequently?

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<sup>(1)</sup> OJ L 142, 5.6.1999, p. 22.

<sup>(2)</sup> OJ L 262, 27.9.1976, p. 201.

### **Answer given by Mr Liikanen on behalf of the Commission**

(2 August 2002)

The Act of Accession applicable to Austria and Sweden authorised these States to maintain existing restrictions on the use of cadmium and its compounds going beyond those laid down in the Annex to Council Directive 76/769/EEC, of 27 July 1976, as amended by Council Directive 91/338/EEC of 18 June 1991<sup>(1)</sup>, until 31 December 1998.

That derogation was granted in order to allow for the completion of an on-going Community-wide risk assessment on that substance, which would in turn allow the Commission to propose appropriate risk reduction measures in the framework of Directive 76/769/EEC. As the risk assessment had not been completed at the end of 1998, that derogation has been extended for a further period of four years by Commission Directive 1999/51/EC.

The Kingdom of the Netherlands brought an action for annulment of Section 3 of the Annex to Commission Directive 1999/51/EC. Sweden was granted leave to intervene in support of the Commission. The Netherlands Government suggested that, were the contested provision to be annulled, the Court should limit the temporal effects of such annulment. The Court decided, however, 'although important grounds of legal certainty, ..., can justify the Court using its power ... to decide to maintain the effects of the acts which have been declared void, the existence of such grounds has non been made clear in the present case. Accordingly, the Court considers that there is no need to apply that provision in this case'.

Following the annulment by the Court of Justice of Section 3 of the Annex to that Directive, Austria and Sweden are obliged to amend their national provisions in order to bring them into line with Directive 76/769, as amended by Directive 91/338/EEC.

The Commission is currently reviewing the cadmium-related provisions of Directive 76/769/EEC in the light of relevant risk assessments.

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<sup>(1)</sup> OJ L 186, 10.9.1991.

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(2002/C 301 E/280)

### **WRITTEN QUESTION P-2090/02**

**by Ioannis Averoff (PPE-DE) to the Commission**

(10 July 2002)

*Subject:* Construction of a hydroelectric power plant at Rona, district of Anilios, Metsovo, by the firm Lakmos Energiaki AE

In its answer to my question P-1521/02<sup>(1)</sup>, the Commission informed me that the Greek authorities had confirmed that a limited capacity hydroelectric power plant was to be built at Anilios and that a decision had been taken to approve the environmental criteria. I would also submit the following, additional information for the Commission's attention.

The residents of Anilios, in conjunction with the municipality of Metsovo, applied to the Court of First Instance at Ioannina for the immediate suspension of the work. The application was granted by decision No 2150/2001, which provisionally prohibited the work pending a final judgment in a case already before the Metsovo County Court due to be heard on 20 September 2002.

The application for suspension of the works claimed that the authorisation of the project was illegal on the following grounds:

- the hydroelectric plant's capacity (function of the difference in elevation between the dam, the plant and the water supply) is obviously more than 1MW since the effective difference in elevation between the dam and the plant is more than the 182 metres shown on the plans, and the water supply greatly exceeds 400lt/sec, even if only the Rona sources are taken into account when, in fact the project will also use the waters of the Metsovitikos II and Arkoudorema sources. These false data were deliberately issued by the accused company in an attempt to represent the hydroelectric power plant as having less capacity in order to circumvent the statutory procedure for approving the project's location in advance (Joint Ministerial Decision 30557/96), which makes its implementation illegal;
- the water collection point is built in a Natura 2000 area (GR 2130006), which is also home to the brown bear *Ursus arctos*, a priority protected species, while the water pipeline crosses an area of particular natural beauty with a wealth of flora and fauna, facts which were not taken into account when the project was authorised.

In the light of the foregoing, will the Commission say whether the annexes accompanying the Greek authorities' answer refer to the above data? What action will it take after examining those annexes, bearing in mind that the Ministry of Development has incorporated the project in the 3rd CSF?

(<sup>1</sup>) See page 169.

#### **Réponse donnée par Mme Wallström au nom de la Commission**

*(2 August 2002)*

Sur la base des faits dénoncés par l'honorable parlementaire, la Commission a ouvert d'office un dossier afin d'examiner si les travaux en question respectent la législation communautaire sur l'environnement.

Dans le cadre de l'examen de ce dossier, la Commission s'est adressée aux autorités grecques et a reçu leur réponse formelle fin mai 2002. Cette réponse qui contient des annexes volumineuses affirme (i) qu'il n'existe qu'une installation hydroélectrique de faible capacité à Anilio, pour laquelle une décision approuvant les termes environnementaux a été adoptée, (ii) qu'il n'existe pas de projet de construction d'une installation hydroélectrique à Vovoussa et (iii) que pour le projet d'installation hydroélectrique à Agios Nikolaos à la rivière d'Arachthos près de la commune de Dafnoti une étude de 'Préapprobation de Localisation' a été déposée auprès des autorités nationales, qui sont en train de l'évaluer.

La Commission est en train d'analyser en détail les informations contenues dans cette réponse afin de constater si les projets en cause auront un impact environnemental négatif significatif. La Commission prendra toutes les mesures nécessaires pour assurer que la législation communautaire sur l'environnement est bien appliquée. La Commission invite l'honorable parlementaire à lui soumettre toutes les informations supplémentaires susceptibles de contester les informations soumises par les autorités grecques.

(2002/C 301 E/281)

#### **WRITTEN QUESTION P-2118/02**

**by Dirk Sterckx (ELDR) to the Commission**

*(10 July 2002)*

*Subject:* Imposition by some airlines of age-limits in connection with the recruitment of stewards

Airlines such as Austrian Airlines and Lufthansa are reportedly imposing age-limits in connection with the recruitment of stewards, refusing to take on applicants aged, in these specific cases, over 35 or 40 respectively.