

- to identify completely waters pursuant to Article 3(1) in accordance with the criteria set out in Annex I and to notify these to the Commission,
- to designate vulnerable zones pursuant to Article 3(2) and/or Article 3(4) thereof,
- to establish action programmes in accordance with Article 5 of the Directive, and
- to carry out correctly and completely monitoring and review of waters in accordance with Article 6(1)(a), (b) and (c) of the Directive,

Ireland has failed to fulfil its obligations thereunder, the Court (Fifth Chamber), composed of: P. Jann, acting for the President of the Chamber, C.W.A. Timmermans and S. von Bahr (Rapporteur), Judges; L.A. Geelhoed, Advocate General; R. Grass, Registrar, has given a judgment on 23 October 2003, in which:

- 1) declares that by failing, within the time-limits provided for in Council Directive 91/676/EEC of 12 December 1991 concerning the protection of waters against pollution caused by nitrates from agricultural sources,
- to identify completely waters pursuant to Article 3(1) in accordance with the criteria set out in Annex I,
 - to designate vulnerable zones pursuant to Article 3(2) and/or Article 3(4) thereof,
 - to establish action programmes in accordance with Article 5 of the Directive, and
 - to carry out correctly and completely monitoring and review of waters in accordance with Article 6(1)(a), (b) and (c) of the Directive,

Ireland has failed to fulfil its obligations thereunder.

- 2) Orders Ireland to bear the costs.

⁽¹⁾ OJ C 369 of 22.12.2001.

JUDGMENT OF THE COURT

(Sixth Chamber)

11 March 2004

In Case C-496/01: Commission of the European Communities v French Republic ⁽¹⁾

(Failure of a Member State to fulfil its obligations — France — Freedom to provide services — Right of establishment — Rules governing bio-medical analysis laboratories — Conditions for the grant of an administrative operating authorisation — Place of business in France)

(2004/C 94/08)

(Language of the case: French)

(Provisional translation; the definitive translation will be published in the European Court Reports)

In Case C-496/01: Commission of the European Communities (Agent: M. Patakia), with an address for service in Luxembourg, against French Republic (Agents: G. de Bergues and C. Bergeot-Nunes):

- Application for a declaration that,
- by requiring that bio-medical analysis laboratories established in other Member States have their place of business in France in order to obtain the requisite operating authorisation;

by precluding any reimbursement of the costs of bio-medical analyses carried out by a bio-medical analysis laboratory established in another Member State,

the

French Republic has failed to fulfil its obligations under Articles 43 EC and 49 EC, the Court (Sixth Chamber), composed of: V. Skouris, acting for the President of the Sixth Chamber, C. Gulmann, J.-P. Puissechet, R. Schintgen and N. Colneric (Rapporteur), Judges; J. Mischo, Advocate General; R. Grass, Registrar, has given a judgment on 11 March 2004, in which it: 1.

- Declares that, by imposing on bio-medical analysis laboratories established in other Member States, a requirement that they have a place of business in France in order to obtain the necessary operating authorisation and by precluding any reimbursement of the costs of bio-medical analyses carried out by a bio-medical analysis laboratory established in another Member State, the French Republic has failed to fulfil its obligations under Article 49 EC;

2. Dismisses the remainder of the application;

3. Orders each party to bear its own costs.

⁽¹⁾ OJ C 44 of 16.02.2002.

JUDGMENT OF THE COURT

(Fifth Chamber)

11 March 2004

In Case C-9/02 (Reference for a preliminary ruling from the Conseil d'État): Hughes de Lasteyrie du Saillant v Ministère de l'Économie, des Finances et de l'Industrie ⁽¹⁾

(Freedom of establishment — Article 52 of the EC Treaty (now, after amendment, Article 43 EC) — Tax legislation — Transfer of residence for tax purposes to another Member State — Methods of taxing increased value of securities)

(2004/C 94/09)

(Language of the case: French)

(Provisional translation; the definitive translation will be published in the European Court Reports)

In Case C-9/02: References to the Court under Article 234 EC by the Conseil d'État (France) for a preliminary ruling in the proceedings pending before that court between Hughes de Lasteyrie du Saillant and Ministère de l'Économie, des Finances et de l'Industrie, on the interpretation of Article 52 of the EC Treaty (now, after amendment, Article 43 EC), the Court (Fifth Chamber), composed of: C.W.A. Timmermans (Rapporteur), acting for the President of the Fifth Chamber, A. La Pergola and S. von Bahr, Judges; J. Mischo, Advocate General; H.A. Rühl, Principal Administrator, for the Registrar, has given a judgment on 11 March 2004, in which it has ruled:

The principle of freedom of establishment laid down by Article 52 of the EC Treaty (now, after amendment, Article 43 EC) must be interpreted as precluding a Member State from establishing, in order to prevent a risk of tax avoidance, a mechanism for taxing as yet unrealised increases in value such as that laid down by Article 167a of the French Code Général des Impôts, where a taxpayer transfers his tax residence outside that State.

(¹) OJ C 56 of 2.03.2002.

JUDGMENT OF THE COURT

(Fifth Chamber)

4 March 2004

In Case C-130/02 (Reference for a preliminary ruling from the Finanzgericht München): Krings GmbH v Oberfinanzdirektion Nürnberg (¹)

(Common Customs Tariff — Combined Nomenclature — Tariff heading — Preparation with a basis of extract of tea)

(2004/C 94/10)

(Language of the case: German)

(Provisional translation; the definitive translation will be published in the European Court Reports)

In Case C-130/02: References to the Court under Article 234 EC by the Finanzgericht München (Germany) for a preliminary ruling in the proceedings pending before that court between Krings GmbH and Oberfinanzdirektion Nürnberg, first, on the interpretation of the Combined Nomenclature of the Common Customs Tariff ('the CN') in the version set out in Commission Regulation (EC) No 2031/2001 of 6 August 2001, amending Annex I to Council Regulation (EEC) No 2658/87 on the tariff and statistical nomenclature and on the Common Customs Tariff (OJ 2001 L 279, p. 1) and, second, on the validity of Commission Regulation (EC) No 306/2001 of 12 February 2001 concerning the classification of certain goods in the Combined Nomenclature (OJ 2001 L 44, p. 25), the Court (Fifth Chamber), composed of: A. Rosas (Rapporteur), acting for the President of the Fifth Chamber, A. La Pergola and S. von Bahr, Judges; C. Stix-Hackl, Advocate General; R. Grass, Registrar, has given a judgment on 4 March 2004, in which it has ruled:

1. Examination of the second question has not revealed any factors affecting the validity of Commission Regulation (EC) No 306/2001 of 12 February 2001 concerning the classification of certain goods in the Combined Nomenclature, in so far as it classifies the products described in points 2 and 3 of the table set out in the annex thereto under subheading 2101 22 02 92 of the Combined Nomenclature of the Common Customs Tariff in the version set out in Commission Regulation (EC) No 2031/2001 of 6 August 2001, amending Annex I to Council Regulation (EEC) No 2658/87 on the tariff and statistical nomenclature and on the Common Customs Tariff.

2. The classification decided by the Commission of the European Communities in Regulation No 306/2001 in respect of the products identified at points 2 and 3 of the table set out in the annex to that regulation is applicable by analogy to two mixtures intended for the production of beverages with a basis of tea, both composed of 64 % granulated sugar and 1.9 % extract of tea and water, to which is added, in one of the two mixtures, 0.8 % citric acid.

(¹) OJ C 144 of 15.06.2002.

JUDGMENT OF THE COURT

(Fifth Chamber)

4 March 2004

In Joined Cases C-238/02 and C-246/02 (Reference for a preliminary ruling from the Bundesfinanzhof): PARTIE 1 v PARTIE 2 (¹)

(Community Customs Code — Extent of the obligation as to presentation of goods arriving at customs — National legislation providing for an express declaration in respect of hidden goods at the time of presentation of goods at customs — Persons having brought in the goods and being under a duty to declare them — Concept of customs debtor)

(2004/C 94/11)

(Language of the case: German)

(Provisional translation; the definitive translation will be published in the European Court Reports)

In Joined Cases C-238/02 and C-246/02: References to the Court under Article 234 EC by the Bundesfinanzhof (Germany) for a preliminary ruling in the proceedings pending before that court between Hauptzollamt Hamburg-Stadt and Kazimieras Viluckas (C-238/02), Ricardas Jonusas (C-246/02), on the interpretation of Article 4(19), Article 40 and the first indent of Article 202(3) of Council Regulation (EEC) No 2913/92 of 12 October 1992 establishing the Community Customs Code (OJ 1992 L 302, p. 1), the Court (Fifth Chamber), composed of: J.N. Cunha Rodrigues, President of the Chamber, J.-P. Puissechot (Rapporteur) and F. Macken, Judges; A. Tizzano, Advocate General; R. Grass, Registrar, has given a judgment on 4 March 2004, in which it has ruled: