

2. In the event that the first question is answered in the affirmative, does Article 4 of Directive 2002/21/EC preclude a national provision which provides that only the undertaking in respect of which specific obligations are imposed, amended or withdrawn has the status of a party to market analysis proceedings?

infringes Article 47 EU, on account of its indivisibility, and is therefore unlawful.

⁽¹⁾ OJ L 255, 30.09.2005, p. 164.

⁽²⁾ Directive 2005/35/EC of the European Parliament and of the Council of 7 September 2005 on ship-source pollution and on the introduction of penalties for infringements, OJ L 255, 30.09.2005, p. 11.

Action brought on 8 December 2005 by the Commission of the European Communities against the Council of the European Union

(Case C-440/05)

(2006/C 22/18)

(Language of the case: French)

An action against the Council of the European Union was brought before the Court of Justice of the European Communities on 8 December 2005 by the Commission of the European Communities, represented by W. Bogensberger and R. Troosters, acting as Agents, with an address for service in Luxembourg.

The Commission of the European Communities claims that the Court should:

- declare that Council Framework Decision 2005/667/JHA of 12 July 2005 to strengthen the criminal-law framework for the enforcement of the law against ship-source pollution ⁽¹⁾ is unlawful;
- annul that framework decision;
- order the Council of the European Union to pay the costs.

Pleas in law and main arguments

Having regard to the Court's functional approach in Case C-176/03 *Commission v Council* [2005] ECR I-0000 and also to the fact that the measures provided for in Articles 1 to 10 of Framework Decision 2005/667/JHA constitute criminal law measures necessary to ensure the efficacy of the common transport policy as developed by Directive 2005/35 EC, ⁽²⁾ the Commission considers that the entire Framework Decision

Removal from the register of Case C-109/05 ⁽¹⁾

(2006/C 22/19)

Language of the case: German

By order of 11 October 2005, the President of the Court of Justice of the European Communities has ordered the removal from the register of Case C-109/05: Commission of the European Communities v Republic of Austria.

⁽¹⁾ OJ C 132 of 28.5.2005.

Removal from the register of Case C-158/05 ⁽¹⁾

(2006/C 22/20)

Language of the case: German

By order of 7 October 2005, the President of the Court of Justice of the European Communities has ordered the removal from the register of Case C-158/05: Commission of the European Communities v Federal Republic of Germany.

⁽¹⁾ OJ C of 11.6.2005.