

Pleas in law and main arguments

By its appeal, the appellant raises the following complaints, which relate to the infringement by the order under appeal of procedural requirements of Community law, by which its interests were prejudiced and which went so far as to affect the content of the order under appeal. They relate to the observance of the right to be heard and measures of inquiry.

The Court of First Instance ordered that the decision on the respondent's objection of inadmissibility should be reserved until final judgment. Following the lodging of the response by the respondent, it closed the written procedure and indicated that the date for the hearing would be notified to the parties at a later date. The applicant had accordingly, in reliance on a date being fixed for a hearing and, above all, on the basis of the order made by the Court, waived its right to present a request under Article 47(1) of the Rules of Procedure of the Court of First Instance that the documents be supplemented. Notwithstanding its earlier indication, the Court ultimately made the order under appeal without there being a hearing.

The appellant proceeded on the basis that it would be able to provide further justification at the hearing that was to be notified for its claim that there are no products on the market that are similar to the small metal wheels that are supplied by its Japanese parent company to manufacturers in Hong Kong and Mexico. In addition, it was its intention to make it clear once again that the wheels in question are not 'friction wheels', as the respondent incorrectly indicated in its response. The appellant also wished to explain at the hearing that the small metal wheels that were represented in the disputed classification regulation could only have been produced by its parent company in Japan and that it was accordingly not a question of small metal wheels of a generic nature as the Court of First Instance indicated in the order under appeal. It also intended to rebut the Commission's contentions that it was not the sole importer of Tokai cigarette lighters.

However, as is clear from the order under appeal itself, the Court of First Instance adopted the Commission's arguments as to the admissibility of the action set out in its response, without, as mentioned, giving the appellant the opportunity to challenge the version of the events put forward by the respondent. The appellant claims that this represents an infringement of its right to a fair hearing.

The Court of First Instance is also under a duty to establish the facts. In so doing, it is not restricted in the proceedings before it simply to establishing the facts in reliance on the requests of the parties for measures of inquiry and to reach a decision on the basis of the evidence led before it alone. Therefore, not only can it take the initiative of its own motion, but it is also under a duty to take the initiative where this is necessary. Accordingly, the Court of First Instance was under a duty to clarify the evidence put forward by the applicant in its written pleadings and, by making the appropriate orders, to call upon the parties

to submit relevant documents and evidence. Since this did not happen, the Court of First Instance infringed Article 64(3)(d) of its Rules of Procedure.

(¹) Not published.

Action brought on 1 June 2007 — Commission of the European Communities v Hellenic Republic

(Case C-264/07)

(2007/C 170/31)

Language of the case: Greek

Parties

Applicant: Commission of the European Communities (represented by: M. Patakia and M. Konstantinidis)

Defendant: Hellenic Republic

Form of order sought

— declare that, by failing to draw up by 22 December 2004 for each river basin district falling within its territory an analysis of its characteristics, a review of the impact of human activity on the status of surface waters and on groundwater and an economic analysis of water use, in accordance with the technical specifications set out in Annexes II and III, the Hellenic Republic has failed to fulfil its obligations under Article 5(1) of Directive 2000/60/EC (¹) establishing a framework for Community action in the field of water policy, while, by failing to submit summary reports of the analyses required under that article, it has also failed to fulfil its obligations under Article 15(2) of that directive;

— order the Hellenic Republic to pay the costs.

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Directive 2000/60 entered into force on 22 December 2000. Therefore the Member States were obliged to have completed the analyses and the review required under Article 5(1) of the Directive by 22 December 2004 at the latest, and to submit to the Commission a summary report concerning those analyses, as laid down by Article 15(2) of the directive, by 22 March 2005 at the latest.

In their response to the Commission's letter of formal notice, the Greek authorities acknowledged the failure to comply with Article 15(2) of the directive and undertook to forward the required report in June 2006. So far as concerns, however, the Hellenic Republic's compliance with the obligations flowing from Article 5(1) of the directive, the Greek authorities were silent, despite the fact that the Commission in its letter of formal notice cast doubt on whether the Hellenic Republic had fulfilled its obligations under that article.

It was apparent from analysing the report which was finally sent in June 2006 that the Hellenic Republic still had not complied with the obligations that flow from Articles 5(1) and 15(2) of Directive 2000/60.

⁽¹⁾ OJ L 327, 22.12.2000, p. 1.

Action brought on 5 June 2007 — Commission of the European Communities v Republic of Slovenia

(Case C-267/07)

(2007/C 170/32)

Language of the case: Slovene

Parties

Applicant: Commission of the European Communities (represented by: N. Yerrell and D. Kukovec, Agents)

Defendant: Republic of Slovenia

Form of order sought

— declare that, by failing to adopt the laws and other provisions necessary to comply with Directive 2004/50/EC ⁽¹⁾ of

the European Parliament and of the Council of 29 April 2004 amending Council Directive 96/48/EC on the interoperability of the trans-European high-speed rail system and Directive 2001/16/EC of the European Parliament and of the Council on the interoperability of the trans-European conventional rail system (OJ 2004 L 164, p. 114), or at any event by failing to communicate those measures to the Commission, the Republic of Slovenia has failed to fulfil its obligations under that directive;

— order the Republic of Slovenia to pay the costs.

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The period prescribed for the transposition into domestic law of Directive 2004/50/EC expired on 29 April 2006.

⁽¹⁾ SL.ES Chapter 13 Volume 34 P. 838.

Order of the President of the Court of 15 May 2007 (reference for a preliminary ruling from the Conseil d'Etat — Belgium) — Clear Channel Belgium S.A. v City of Liège

(Case C-378/06) ⁽¹⁾

(2007/C 170/33)

Language of the case: French

The President of the Court has ordered that the case be removed from the register.

⁽¹⁾ OJ C 261, 28.10.2006.