

The Commission claims that the Court should:

1. declare that, by failing to bring into force all the laws, regulations and administrative provisions necessary to comply with Directive 2002/59/EC of the European Parliament and of the Council of 27 June 2002 <sup>(1)</sup> establishing a Community vessel traffic monitoring and information system and repealing Council Directive 93/75/EEC, or at least by failing to communicate them to the Commission, the Republic of Finland has failed to comply with its obligations under the directive;
2. order the Republic of Finland to pay the costs.

*Pleas in law and main arguments*

The period prescribed for implementation of the directive expired on 5 February 2004.

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<sup>(1)</sup> OJ L 208 of 5.8.2002, p. 10.

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**Reference for a preliminary ruling from the Bundesverwaltungsgericht by judgment of that court of 9 December 2004 in Emsland-Stärke GmbH v Bezirksregierung Weser-Ems**

**(Case C-94/05)**

(2005/C 93/37)

*(Language of the case: German)*

Reference has been made to the Court of Justice of the European Communities by judgment of the Bundesverwaltungsgericht (Federal Administrative Court) (Germany) of 9 December 2004, received at the Court Registry on 22 February

2005, for a preliminary ruling in the proceedings between Emsland-Stärke GmbH and Bezirksregierung Weser-Ems on the following questions

1. (a) Does Article 13(4) in conjunction with Article 4(5) of Regulation (EC) No 97/95 as amended by Regulation (EC) No 1125/96 apply where a contract said to be a cultivation contract is concluded and is accepted by the competent authority under Article 4(2) and (3) of the Regulation but where the contract is not concluded with a potato producer but with a dealer who obtains the potatoes directly or indirectly from potato producers?
- (b) Does Article 13(4) of Regulation (EC) No 97/95 as amended by Regulation (EC) No 1125/96 require the starch-producing undertaking to have exceeded its sub-quota by taking delivery of the potatoes?
2. (a) Does the system of sanctions provided for in Article 13(4) of Regulation (EC) No 97/95 as amended by Regulation (EC) No 1125/96, by contradistinction to Article 13(3) of that Regulation, satisfy Community-law standards of certainty?
- (b) Is the sanction provided for in Article 13(4) of Regulation (EC) No 97/95 as amended by Regulation (EC) No 1125/96, in view of its amount, necessary to protect the financial interests of the Community within the meaning of Article 2(1) of Regulation (EC, Euratom) No 2988/95 in cases such as this? Is it commensurate with protection of the financial interests of the Community in cases such as this?
3. Is an irregularity liable to a sanction under Article 13(4) of Regulation (EC) No 97/95 as amended by Regulation (EC) No 1125/96 caused by negligence within the meaning of Article 5(1) of Regulation (EC, Euratom) No 2988/95 even if the authority has approved the premium in full knowledge of the facts?