

Form of order sought

- declare that, by not adopting, and in any event by not notifying to the Commission, the laws, regulations and administrative provisions necessary to comply with Council Directive 2003/43/EC⁽¹⁾ of 26 May 2003 amending Directive 88/407/EEC laying down the animal health requirements applicable to intra-Community trade in and imports of semen of domestic animals of the bovine species, the Hellenic Republic has failed to fulfil its obligations under that directive;
- order the Hellenic Republic to pay the costs.

Pleas in law and main arguments

The time-limit for transposition of the directive into domestic law expired on 1 July 2004.

⁽¹⁾ OJ L 143, 11.6.2003, p. 23.

Action brought on 6 July 2006 — Ireland v Council of the European Union, European Parliament

(Case C-301/06)

(2006/C 237/09)

Language of the case: English

Parties

Applicant: Ireland (represented by: D. O'Hagan, Agent, E. Fitzsimons SC, D. Barniville BL)

Defendants: Council of the European Union, European Parliament

The applicant claims that the Court should:

- Annul Directive 2006/24/EC of the European Parliament and of the Council of 15 March 2006 on the retention of data generated or processed in connection with the provision of publicly available electronic communications services or of public communications networks and amending Directive 2002/58/EC⁽¹⁾ on the grounds that it was not adopted on an appropriate legal basis.

- Order the Council of the European Union and the European Parliament to pay the costs.

Pleas in law and main arguments

Ireland submits that the choice of Article 95 of the Treaty establishing the European Community ('TEC') as the legal basis for Directive 2006/24/EC ('the Directive') is fundamentally flawed. Ireland further submits that neither Article 95 TEC nor any other provision of the TEC can provide a proper legal basis for the Directive. It is primarily Ireland's case that the sole or, alternatively, the main or predominant purpose of the Directive is to facilitate the investigation, detection and prosecution of serious crime, including terrorism. In those circumstances, it is Ireland's contention that the only permissible legal base for the measures contained in the Directive is Title VI of the Treaty on European Union ('TEU'), in particular Articles 30, 31(1)(c) and 34(2)(b).

In support of its submissions, Ireland has indicated that a consideration of the recitals to and the fundamental provisions of the Directive unquestionably demonstrates that reliance upon Article 95 TEC as the legal basis for the Directive is wholly inappropriate and unsustainable. In that regard, it has pointed out that the Directive is clearly and unambiguously directed towards the fight against serious crime. Accordingly, Ireland submits that this constitutes the main or predominant purpose of the Directive and, indeed, its sole objective.

It is established that measures based upon Article 95 TEC must have as their 'centre of gravity' the approximation of national laws to benefit the functioning of the internal market. The provisions of the Directive are concerned with combating serious crime and are not intended to address any defects in the internal market.

While a defect arising from differences of national laws has been asserted, it has not been established.

In the alternative, even if, contrary to Ireland's fundamental submission, the Directive does have as one of its objectives the prevention of distortions or obstacles to the internal market, Ireland submits that this objective must be regarded as being purely incidental in character to the demonstrated main or predominant objective of the fight against crime.

⁽¹⁾ OJ L 105, p. 54