

Case C-341/95

Gianni Bettati
v
Safety Hi-Tech Srl

(Reference for a preliminary ruling
from the Pretura Circondariale, Avezzano)

(Regulation (EC) No 3093/94 — Measures to protect the ozone layer —
Restrictions on the use of hydrochlorofluorocarbons and halons — Validity)

Opinion of Advocate General Léger delivered on 3 February 1998 I - 4358

Judgment of the Court, 14 July 1998 I - 4359

Summary of the Judgment

1. *Community law — Interpretation — Methods — Interpretation in the light of international agreements concluded by the Community*
2. *Environment — Protection of the ozone layer — Regulation No 3093/94 — Scope — Prohibition against using and marketing hydrochlorofluorocarbons for fire-fighting — Infringement of Articles 30 and 130r of the Treaty — None*
(EC Treaty, Arts 30 and 130r; Council Regulation No 3093/94, Art. 5)

3. *Environment — Treaty provisions — Article 130r — Conditions for application — Review by Community judicature — Limits*
(EC Treaty, Art. 130r)
4. *Environment — Action to be undertaken by the Community — Adoption of measures to deal with a specific environmental problem — Whether permissible — Conditions*
(EC Treaty, Art. 130r et seq.)
5. *Environment — Community policy — Requirement of a high level of protection — Scope*
(EC Treaty, Art. 130r(2))
6. *Preliminary rulings — Admissibility of questions — Question submitted without any details of factual and legislative context*
(EC Treaty, Art. 177)

1. Community legislation must, so far as possible, be interpreted in a manner that is consistent with international law, in particular where its provisions are intended specifically to give effect to an international agreement concluded by the Community.
2. Article 5 of Regulation No 3093/94 on substances that deplete the ozone layer lays down a general prohibition on the use of hydrochlorofluorocarbons (HCFCs), which applies with effect from 1 June 1995. Since the use of HCFCs for fire-fighting is not among the exceptions to which that prohibition is subject, the provision in question must be interpreted as entirely prohibiting the use, and therefore the marketing, of HCFCs for such purposes.

That prohibition is not invalid under Article 130r of the Treaty: the Commu-

nity legislature neither committed a manifest error of appraisal regarding the conditions for the application of that provision nor infringed the principle of proportionality. By adopting a more severe measure than those deriving from its international obligations and by providing that the Commission may, in the light of technical progress, add to, delete items from or amend the list of prohibited uses, the legislature, in particular, complied with the principle laid down in Article 130r(2) that a high level of protection must be provided and took account of the available scientific and technical data, as required by Article 130r(3).

The prohibition at issue is likewise not invalid under Article 30 of the Treaty since the environmental protection which it pursues is an imperative requirement

which may limit the application of that provision.

adoption of measures relating solely to certain specified aspects of the environment, provided that such measures contribute to the preservation, protection and improvement of the quality of the environment.

3. Article 130r of the Treaty, which is concerned with Community environmental policy, sets a series of objectives, principles and criteria which the Community legislature must respect in implementing that policy. However, in view of the need to strike a balance between certain of those objectives and principles and of the complexity of the implementation of those criteria, review by the Court must necessarily be limited to the question whether, in adopting particular rules, the legislature committed a manifest error of appraisal regarding the conditions for the application of Article 130r of the Treaty.
4. It does not follow from the provisions of Title XVI of the Treaty, concerning the environment, that Article 130r(1) of the Treaty requires the legislature, whenever it adopts measures to preserve, protect and improve the environment in order to deal with a specific environmental problem, to adopt at the same time measures relating to the environment as a whole. It follows that Article 130r(1) authorises the
5. Whilst it is undisputed that Article 130r(2) of the Treaty requires Community policy in environmental matters to aim for a high level of protection, such a level of protection, to be compatible with that provision, does not necessarily have to be the highest that is technically possible. Article 130t of the Treaty authorises the Member States to maintain or introduce more stringent protective measures.
6. The need to provide an interpretation of Community law which will be of use to the national court makes it necessary that the national court define the factual and legal context of the questions it is asking or, at the very least, explain the factual circumstances on which those questions are based. Those requirements are of particular importance in certain areas, such as that of competition, which are characterised by complex factual and legal situations.