

Judgment of the Court (Second Chamber) of 1 October 2009 — Commission of the European Communities v Council of the European Union

(Case C-370/07) ⁽¹⁾

(Action for annulment — Establishment of the positions to be adopted on behalf of the Community in a body established by a convention — Obligation to state reasons — Reference to the legal basis — 14th meeting of the Conference of the Parties to the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES))

(2009/C 282/05)

Language of the case: English

Parties

Applicant: Commission of the European Communities (represented by: G. Valero Jordana and C. Zadra, Agents)

Defendant: Council of the European Union (represented by: J.-P. Jacqu , F. Florindo Gij n and K. Michoel, Agents)

Intervener in support of the defendant: United Kingdom of Great Britain and Northern Ireland (represented by: E. Jenkinson and I. Rao, Agents, and D. Wyatt QC)

Re:

Annulment of the Council Decision of 24 May 2007 establishing the position to be adopted on behalf of the European Community with regard to certain proposals submitted to the 14th meeting of the Conference of the Parties to the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES), the Hague, Netherlands, 3-15 June 2007 — Choice of legal basis

Operative part of the judgment

The Court:

1. Annuls the decision of the Council of the European Union of 24 May 2007 establishing the position to be adopted on behalf of the European Community with regard to certain proposals submitted at the 14th meeting of the Conference of the Parties to the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES), The Hague (Netherlands), 3 to 15 June 2007.
2. Maintains in force the effects of the annulled decision.
3. Orders the Council of the European Union to pay the costs.
4. Orders the United Kingdom of Great Britain and Northern Ireland to bear its own costs.

⁽¹⁾ OJ C 223, 22.09.2007.

Judgment of the Court (Third Chamber) of 6 October 2009 — Commission of the European Communities v Kingdom of Sweden

(Case C-438/07) ⁽¹⁾

(Failure of a Member State to fulfil obligations — Environment — Directive 91/271/EEC — Treatment of urban waste water — Failure to require more stringent treatment of nitrogen in all treatment plants of urban waste water from agglomerations of more than 10 000 population equivalent)

(2009/C 282/06)

Language of the case: Swedish

Parties

Applicant: Commission of the European Communities (represented by: I. Koskinen, L. Parpala, M. Patakia and S. Pardo Quintill n, Agents)

Defendant: Kingdom of Sweden (represented by: A. Falk, Agent)

Intervener in support of the defendant: Republic of Finland (represented by: J. Heliskoski and A. Guimaraes-Purokoski, Agents)

Re:

Failure of a Member State to fulfil obligations — Breach of Article 5(2), (3) and (5) of Council Directive 91/271/EEC of 21 May 1991 concerning urban waste-water treatment (OJ 1991 L 135, p. 40), as amended by Commission Directive 98/15/EC of 27 February 1998 (OJ 1998 L 67, p. 29) — Failure to ensure, at the latest by 31 December 1998, that all discharges from treatment plants of urban waste water from agglomerations of more than 10 000 population equivalent released into sensitive areas or their catchment areas fulfil the relevant requirements of Annex I to Council Directive 91/271/EEC.

Operative part of the judgment

The Court:

1. Declares that, by not ensuring, by 31 December 1998 at the latest, that discharges from the treatment plants of urban waste water from agglomerations of more than 10 000 population equivalent listed in Annexes 2 and 3 to its defence, as amended by its rejoinder, which enter directly into sensitive areas or their catchment areas fulfil the relevant requirements of Annex I to Council Directive 91/271/EEC of 21 May 1991 concerning urban waste-water treatment, as amended by Commission Directive 98/15/EC of 27 February 1998, the Kingdom of Sweden has failed to fulfil its obligations under Article 5(2), (3) and (5) of that directive;
2. Dismisses the action as to the remainder;

3. *Orders the Commission of the European Communities, the Kingdom of Sweden and the Republic of Finland to bear their own costs.*

(¹) OJ C 283, 24.11.2007.

Judgment of the Court (Second Chamber) of 1 October 2009 (reference for a preliminary ruling from the Tribunal Supremo (Spain)) — Proceedings brought by Compañía Española de Comercialización de Aceite SA

(Case C-505/07) (¹)

(Reference for a preliminary ruling — Common organisation of the market in oils and fats — Regulation No 136/66/EEC — Article 12a — Storage of olive oil without Community financing — Powers of national competition authorities)

(2009/C 282/07)

Language of the case: Spanish

Referring court

Tribunal Supremo

Parties to the main proceedings

Applicant: Compañía Española de Comercialización de Aceite SA

Intervening parties: Asociación Española de la Industria y Comercio Exportador de Aceite de Oliva (Asoliva), Asociación Nacional de Industriales Envasadores y Refinadores de Aceites Comestibles (Anierac), Administración del Estado

Re:

Reference for a preliminary ruling — Tribunal Supremo — Interpretation of Article 12a of Council Regulation No 136/66/EEC of 22 September 1966 on the establishment of a common organisation of the market in oils and fats (OJ, English Special Edition 1965-1966, p. 221) as amended by Council Regulation (EC) No 1638/98 (OJ 1998 L 210, p. 32), of Council Regulation (EC) No 952/97 of 20 May 1997 on producer groups and associations thereof (OJ 1997 L 142, p. 30) and of Regulation No 26 applying certain rules of competition to production of and trade in agricultural products (OJ, English Special Edition 1959-1962, p. 129) — Meaning of ‘authorised body’ — Meaning of producer groups and associations thereof — Storage

Operative part of the judgment

1. *A public limited company, the capital of which is held predominantly by olive oil producers, oil pressers and olive growers' cooperatives, and the remainder of the capital of which is held by financial entities, is capable of coming within the concept of a body, within the meaning of Article 12a of*

Council Regulation No 136/66/EEC of 22 September 1966 on the establishment of a common organisation of the market in oils and fats, as amended by Council Regulation (EC) No 1638/98 of 20 July 1998, which may be authorised to conclude a contract for the private storage of olive oil under that provision, subject to it meeting the conditions laid down therein.

2. *The ‘approval by the Member State’, which bodies within the meaning of Article 12a of Regulation No 136/66 — as amended by Regulation No 1638/98 — must have, can be obtained in the context of application for an individual exemption (‘authorisation’) submitted to the national competition authorities, provided that those authorities have the means necessary to verify the suitability of the body which has submitted the application to carry out the private storage of olive oil in compliance with the legal requirements.*
3. *Article 12a of Regulation No 136/66, as amended by Regulation No 1638/98, does not preclude a mechanism for the purchase and storage of olive oil which is agreed and financed privately, and which has not undergone the authorisation procedure to which that provision refers.*
4. *To the extent that the national competition authorities refrain from taking any measure which might undermine or create exceptions to the common organisation of the market in olive oil and from taking decisions which conflict with those of the Commission of the European Communities or create the risk of such conflict, they can apply national competition law to an agreement which is likely to affect the market in olive oil at Community level.*

(¹) OJ C 37, 09.02.2008.

Judgment of the Court (First Chamber) of 6 October 2009 — Commission of the European Communities v Kingdom of Spain

(Case C-562/07) (¹)

(Failure of a Member State to fulfil obligations — Free movement of capital — Article 56 EC and Article 40 of the EEA Agreement — Direct taxation — Natural persons — Taxation of capital gains — Difference in treatment of residents and non residents)

(2009/C 282/08)

Language of the case: Spanish

Parties

Applicant: Commission of the European Communities (represented by: R. Lyal and I. Martínez del Peral, acting as Agents)

Defendant: Kingdom of Spain (represented by: M. Muñoz Pérez, acting as Agent)