

Judgment of the Court (Fifth Chamber) of 17 December 2009 — European Commission v Hellenic Republic

(Case C-248/08) ⁽¹⁾

(Failure of a Member State to fulfil obligations — Regulation (EC) No 1774/2002 — Articles 4(2)(a) and (c), 5(2)(c), 6(2)(b), 10 to 15, 17, 18 and 26 — Animal by-products — Waste — Burial without prior treatment — Lack of official controls — Plants for the safe management of animal by-products — Operation — Lack of authorisation — Incineration of specified risk materials — No adequate process)

(2010/C 51/11)

Language of the case: Greek

Parties

Applicant: European Commission (represented by: H. Tserepa-Lacombe and A. Markoulli, acting as Agents)

Defendant: Hellenic Republic (represented by: V. Kontolaimos, S. Charitaki, E.-M. Mamouna and Chalkias, acting as agents)

Re:

Failure of a Member State to fulfil obligations — Breach of Articles 4(2), 5(2), 10 to 15, 17, 18 and 26 of Regulation (EC) No 1774/2002 of the European Parliament and of the Council of 3 October 2002 laying down health rules concerning animal by-products not intended for human consumption (OJ 2002 L 273, p. 1) — Burial of animal by-products without prior treatment — Lack of official controls

Operative part of the judgment

The Court:

1. By not correctly applying and imposing Regulation (EC) No 1774/2002 of the European Parliament and of the Council of 3 October 2002 laying down health rules concerning animal by-products not intended for human consumption, in so far as it regards burial in landfills without prior treatment, lack of official controls, authorisation of plants for the management of animal by-products and incineration of specified risk materials, the Hellenic Republic has failed to fulfil its obligations under Articles 4(2)(a) and (c), 5(2)(c), 6(2)(b), 10 to 15, 17, 18 and 26 of Regulation No 1774/2002;
2. orders the Hellenic Republic to pay the costs.

⁽¹⁾ OJ C 209 of 15.08.2008

Judgment of the Court (Fourth Chamber) of 23 December 2009 (reference for a preliminary ruling from the Consiglio di Stato (Italy)) — Consorzio Nazionale Interuniversitario per le Scienze del Mare (CoNISMa) v Regione Marche

(Case C-305/08) ⁽¹⁾

(Public service contracts — Directive 2004/18 — Concepts of ‘contractor’, ‘supplier’ and ‘service provider’ — Concept of ‘economic operator’ — Universities and research institutes — Group (‘consorzio’) of universities and public authorities — Where the primary object under the statutes is non-profit-making — Admission to a procedure for the award of a public contract)

(2010/C 51/12)

Language of the case: Italian

Referring court

Consiglio di Stato

Parties to the main proceedings

Applicant: Consorzio Nazionale Interuniversitario per le Scienze del Mare (CoNISMa)

Defendant: Regione Marche

Re:

Reference for a preliminary ruling — Consiglio di Stato — Interpretation of Directive 2004/18/EC of the European Parliament and of the Council of 31 March 2004 on the coordination of procedures for the award of public works contracts, public supply contracts and public service contracts (OJ 2004 L 134, p. 114) — Exclusion of non-profit-making entities whose objects include research, such as universities, from a tendering procedure for the award of a public service contract for the acquisition of geophysical data

Operative part of the judgment

1. The provisions of Directive 2004/18/EC of the European Parliament and of the Council of 31 March 2004 on the coordination of procedures for the award of public works contracts, public supply contracts and public service contracts, in particular those in Article 1(2)(a) and (8), first and second subparagraphs, which refer to the concept of ‘economic operator’, must be interpreted as permitting entities which are primarily non-profit-making and do not have the organisational structure of an undertaking or a regular presence on the market — such as universities and research institutes and consortia made up of universities and public authorities — to take part in a public tendering procedure for the award of a service contract.