

Judgment of the Court (Seventh Chamber) of 11 December 2008 — Commission of the European Communities v French Republic

(Case C-330/08) ⁽¹⁾

(Failure of a Member State to fulfil obligations — Directive 2004/35/EC — Environmental liability — Prevention and remedying of environmental damage — Failure to transpose within the period prescribed)

(2009/C 32/18)

Language of the case: French

Parties

Applicant: Commission of the European Communities (represented by: G. Rozet and U. Wölker, acting as Agents)

Defendants: French Republic (represented by: G. de Bergues and A. Adam, Agents)

Re:

Failure of a Member State to fulfil obligations — Failure to adopt the provisions necessary to comply with Directive 2004/35/CE of the European Parliament and of the Council of 21 April 2004 on environmental liability with regard to the prevention and remedying of environmental damage (OJ 2004 L 143, p. 56)

Operative part of the judgment

The Court:

1. Declares that, by failing to adopt the laws, regulations and administrative provisions necessary to comply with Directive 2004/35/CE of the European Parliament and of the Council of 21 April 2004 on environmental liability with regard to the prevention and remedying of environmental damage, the French Republic has failed to fulfil its obligations under Article 19(1) of that directive;
2. Orders the French Republic to pay the costs.

⁽¹⁾ OJ C 272, 25.10.2008.

Reference for a preliminary ruling from the Verwaltungsgerichtshof Baden-Württemberg (Germany) lodged on 9 October 2008 — Kurt Wierer v Land Baden-Württemberg

(Case C-445/08)

(2009/C 32/19)

Language of the case: German

Referring court

Verwaltungsgerichtshof Baden-Württemberg

Parties to the main proceedings

Applicant: Kurt Wierer

Defendant: Land Baden-Württemberg

Questions referred

1. Is it contrary to the principles developed by the Court of Justice in the judgments of 26 June 2008 (in Joined Cases C-329/06 and C-343/06 Wiedemann and Joined Cases C-334/06 and C-336/06 Zerche) for the national driving licence authorities and the courts of the host Member State, when examining compliance with the residence condition in Article 9 of Directive 91/439/EEC ⁽¹⁾ by the issuing Member State at the time of issuing the driving licence, to rely, to the disadvantage of the holder of the driving licence, on statements and information which were provided by the holder in the course of administrative procedures or court proceedings and which he was obliged to provide when complying with an obligation of cooperation under national administrative law in the course of the investigation of facts relevant to the issues of the case?

2. Should that question be answered in the negative:

Is it contrary to the principles developed by the Court of Justice in the judgments of 26 June 2008 (in Joined Cases C-329/06 and C-343/06 Wiedemann and Joined Cases C-334/06 and C-336/06 Zerche) for the national driving licence authorities and the courts of the host Member State, when examining compliance with the residence condition in Article 9 of Directive 91/439/EEC by the issuing Member State at the time of issuing the driving licence, in a case where firm evidence exists that the condition was not met at the time the driving licence was issued, to conduct further investigations exclusively in the issuing Member State, for example, with registration authorities, landlords, or employers, and to use those facts, provided that they have evidentiary force, alone or together with information from the issuing Member State or the holder of the driving licence himself?

⁽¹⁾ OJ L 237, p. 1.