

Action brought on 28 January 2010 — European Commission v Portuguese Republic

(Case C-44/10)

(2010/C 100/33)

Language of the case: Portuguese

Parties

Applicant: European Commission (represented by: A. Alcover San Pedro and P. Guerra e Andrade, Agents)

Defendant: Portuguese Republic

Form of order sought

— Declare that, by failing to take the measures necessary to ensure, by granting permits in accordance with Articles 6 and 8 of Directive 2008/1/EC ⁽¹⁾ and reconsidering and, where necessary, updating permits for existing installations, that those existing installations operated from 30 October 2007 in accordance with Articles 3, 7, 9, 10 and 13, Article 14(a) and (b) and Article 15(2) of Directive 2008/1/EC of the European Parliament and of the Council of 15 January 2008 concerning integrated pollution prevention and control (IPPC Directive), the Portuguese Republic has failed to fulfil its obligations under Article 5(1) of that directive.

— Order the Portuguese Republic to pay the costs.

Pleas in law and main arguments

It follows from Article 4 of the IPPC Directive, read in conjunction with Article 5(1) thereof, that the Member States had to ensure that permits for new and existing installations were granted in accordance with the requirements of Articles 6 and 8 of the Directive. They also had to reconsider and, where necessary, update the conditions of permits for existing installations by 31 October 2007.

According to information supplied by the Portuguese authorities in 2008, the relevant authorisation was not applied for in respect of a number of installations. In addition, 280 out of a total of 632 installations operated without the relevant permit being granted.

According to updated information, 481 out of a total of 577 installations have permits, with 17 authorisation procedures pending.

⁽¹⁾ OJ 2008 L 24, p. 8.

Reference for a preliminary ruling from the Raad van State (Belgium) lodged on 28 January 2010 — 1. Vlaamse Dierenartsenvereniging VZW, 2. Marc Janssens v Belgian State

(Case C-45/10)

(2010/C 100/34)

Language of the case: Dutch

Referring court

Raad van State

Parties to the main proceedings

Applicants: Vlaamse Dierenartsenvereniging VZW

Marc Janssens

Defendant: Belgian State

Questions referred

1. Do Articles 3(b), 4(2), 5 and the second subparagraph of Article 17 of Regulation 998/2003/EC ⁽¹⁾ of the European Parliament and the Council of 26 May 2003 on the animal health requirements applicable to the non-commercial movement of pet animals and amending Council Directive 92/65/EEC and the articles and annexes of Commission Decision 2003/803/EC ⁽²⁾ of 26 November 2003 establishing a model passport for the intra-Community movements of dogs, cats and ferrets preclude a national legislative measure which also uses the model of the European pet passport as proof of the identification and registration of dogs and in so doing makes provision for third parties to make changes regarding the identification of the owner and the animal in Parts I to III of a European pet passport attested by an authorised veterinarian by means of identification stickers which are superimposed on the previous identification details?

2. Are national provisions which also use the model of the European pet passport, as contained in Commission Decision 2003/803/EC of 26 November 2003 establishing a model passport for the intra-Community movements of dogs, cats and ferrets, as proof of the identification and registration of dogs and in so doing make provision for third parties to make changes regarding the identification of the owner and the animal in Parts I to III of such a passport by means of identification stickers, technical regulations within the meaning of Article 1 of Directive 98/34/EC⁽³⁾ of the European Parliament and of the Council of 22 June 1998 laying down a procedure for the provision of information in the field of technical standards and regulations, which under Article 8 of that directive must be communicated to the European Commission before they are enacted?

⁽¹⁾ OJ 2003 L 146, p. 1.

⁽²⁾ OJ 2003 L 312, p. 1.

⁽³⁾ OJ 1998 L 204, p. 37.

Action brought on 28 January 2010 — European Commission v Kingdom of Spain

(Case C-48/10)

(2010/C 100/35)

Language of the case: Spanish

Parties

Applicant: European Commission (represented by: A. Alcover San Pedro, Agent)

Defendant: Kingdom of Spain

Form of order sought

— declare that, by failing to adopt the measures necessary so that the authorities ensure — by granting authorisations in accordance with Articles 6 and 8 or, by adequately revising the conditions and, if appropriate, updating them — that installations are operated in accordance with the requirements laid down in Articles 3, 7, 9, 10, 13, 14(a) and (b), and 15(2) by 30 October 2007 at the latest, unless other specific provisions of Community law are applicable, the Kingdom of Spain has failed to fulfil its obligations under to Article 5(1) of Directive 2008/1/EC⁽¹⁾ of the European Parliament and of the Council of 15 January 2008 concerning integrated pollution prevention and control (IPPC Directive).

— order the Kingdom of Spain to pay the costs.

Pleas in law and main arguments

Under Article 5(1) of Directive 2008/1/EC, the period for complying with the obligation to adapt existing installations to the requirements of the IPPC Directive, by granting an integrated environmental authorisation, lapsed on 30 October 2007.

On that date, many existing installations continued operating in Spain without that authorisation. Since the commencement of an action based on that infringement, the process of granting environmental authorisations has been speeded up without, however, bringing an end to that infringement within the period prescribed in the reasoned opinion or, according to the information available to the Commission, without bringing an end to it by the present date. According to the information supplied by the national authorities in their reply to the reasoned opinion, 533 existing installations were still operating without the mandatory IPPC authorisation on the date on which the period prescribed in that opinion, for complying with the obligations arising under Article 5(1) of the IPPC Directive, lapsed.

In those circumstances, it is clear that the Kingdom of Spain has still not fulfilled the obligations arising from that provision.

⁽¹⁾ OJ 2008 L 24, p. 8.

Action brought on 29 January 2010 — European Commission v Italian Republic

(Case C-50/10)

(2010/C 100/36)

Language of the case: Italian

Parties

Applicant: European Commission (represented by: A. Alcover San Pedro and C. Zadra, Agents)

Defendant: Italian Republic