

Action brought on 5 August 2010 — European Commission v Hellenic Republic

(Case C-398/10)

(2010/C 274/29)

Language of the case: Greek

Parties

Applicant: European Commission (represented by: M. Karanasou-Apostolopoulou and A. Alcover San Pedro, acting as Agents)

Defendant: Hellenic Republic

Form of order sought

— declare that, by not adopting the laws, and administrative provisions, necessary to comply with Directive 2007/2/EC of the European Parliament and of the Council of 14 March 2007 establishing an Infrastructure for Spatial Information in the European Community (INSPIRE) or in any event by not communicating those provisions to the Commission, the Hellenic Republic has failed to fulfil its obligations under that directive;

— order the Hellenic Republic to pay the costs.

Pleas in law and main arguments

The time-limit for transposition of Directive 2007/2/EC into domestic law expired on 15 May 2009.

Appeal brought on 10 August 2010 the European Commission against the judgment of the General Court delivered on 9 June 2010 in Case T-237/05 *Éditions Odile SAS v Commission*

(Case C-404/10 P)

(2010/C 274/30)

Language of the case: French

Parties

Appellant: European Commission (represented by: B. Smulders, O. Beynet, and P. Costa de Oliveira, acting as Agents)

Other party to the proceedings: *Éditions Odile Jacob SAS, Lagardère SCA*

Forms of order sought

— Set aside the judgment of the General Court of 9 June 2010, Case T-237/05, *Éditions Odile Jacob SAS v Commission*, in that it annuls the Commission Decision of 7 April 2005, refusing access to documents concerning the merger control case NO COMP/M.2978;

— Dismiss the respondent's application for annulment brought before the General Court and give a final ruling on the questions which form the subject-matter of the present appeal;

— Order the appellant to pay the costs incurred by the Commission in respect of both the proceedings at first instance and the present appeal.

Pleas in law and main arguments

The Commission bases its appeal on two pleas in law.

By its first plea in law, the appellant claims that the General Court misinterpreted Regulation (EC) No 1049/2001⁽¹⁾ by failing to take account of, for the purposes of the interpretation of the exceptions to the right of access to documents, the provisions of Council Regulation No 4064/89⁽²⁾ on concentrations between undertakings. The general rules on rights of access should take account of the specific features of competition proceedings and the confidentiality guarantees offered to undertakings concerned by a concentration.

By its second plea in law, which comprises five parts, the Commission complains of misinterpretation of, by the General Court, of Article 4(2) and (3) of the above-mentioned Regulation No 1049/2001, in so far as it assumed that the appellant had an obligation to carry out a concrete, individual examination of each of the documents covered by a request for access, even in cases manifestly covered by an exception (first part). The Commission also disputes the restrictive interpretation made by the General Court of the exception regarding the protection of the purpose of inspections and audit investigations, according to which that exception cannot apply after the adoption by the Commission of its merger control decision closing the administrative procedure (second part). The

appellant also claims that the General Court made a manifest error of law in requiring, first, that a concrete and individual examination of the documents be carried out by the Commission, with a description of the contents, second, by requiring consultation with third parties, despite the manifest nature of the application of the exception concerning the protection of commercial interests (third part). In addition, the Commission maintained that the General Court made an error of law made in so far as it annulled its decision to refuse access to internal documents, where those documents are within the scope of the exception “the decision-making process” mentioned in Article 4(3), second subparagraph (fourth part). Finally, the appellant claims that there was a misinterpretation of Article 4(6) of the above-mentioned Regulation (fifth part).

measures necessary to transpose Directive 2007/47/EC of the European Parliament and of the Council of 5 September 2007 amending Council Directive 90/385/EEC on the approximation of the laws of the Member States relating to active implantable medical devices, Council Directive 93/42/EEC concerning medical devices and Directive 98/8/EC concerning the placing of biocidal products on the market; ⁽¹⁾

— order the Republic of Estonia to pay the costs.

Pleas in law and main arguments

The period for transposing the directive into national law expired on 21 December 2008.

⁽¹⁾ Regulation (EC) No 1049/2001 of the European Parliament and of the Council of 30 May 2001 regarding public access to European Parliament, Council and Commission documents (OJ 2001L 14, p. 45)

⁽²⁾ Council Regulation (EEC) No 4064/89 of 21 December 1989 on the control of concentrations between undertakings (OJ 1989 L395, p. 1)

⁽¹⁾ OJ 2007 L 247, p. 21.

Action brought on 16 August 2010 — European Commission v Republic of Estonia

(Case C-407/10)

(2010/C 274/31)

Language of the case: Estonian

Parties

Applicant: European Commission (represented by: A. Sipos and E. Randvere, acting as Agents)

Defendant: Republic of Estonia

Form of order sought

— declare that the Republic of Estonia has failed to notify the

Action brought on 16 August 2010 — European Commission v Republic of Estonia

(Case C-408/10)

(2010/C 274/32)

Language of the case: Estonian

Parties

Applicant: European Commission (represented by: A. Sipos and E. Randvere, acting as Agents)

Defendant: Republic of Estonia

Form of order sought

— declare that the Republic of Estonia has failed to notify the measures necessary to transpose Directive 2008/13/EC of the European Parliament and of the Council of 11 March 2008 repealing Council Directive 84/539/EEC on the approximation of the laws of the Member States relating to electro-medical equipment used in veterinary medicine; ⁽¹⁾

— order the Republic of Estonia to pay the costs.