

Under Article 55 of the directive, the Member States were required to comply with that directive by 13 May 2000. Although, in the meantime, the Federal Republic of Germany has substantially transposed the directive into national law by means of the Strahlenschutzverordnung (Ordinance on protection from radiation) of 20 July 2001, there are still no provisions regulating activities carried out in connection with the clean-up of left-over waste from earlier activities and works, the closure and clean-up of uranium-ore extraction facilities and plants, and the construction and operation of radiological installations facilities and stray radiation equipment under the Röntgenverordnung (Ordinance on protection against damage from ionising radiation).

(¹) OJ L 159, 29.6.1996, p. 1.

Appeal brought on 17 May 2002 against the judgment delivered on 6 March 2002 by the Third Chamber, Extended Composition, of the Court of First Instance of the European Communities in Joined Cases T-92/00 and T-103/00 (not yet published) between Territorio Histórico de Álava — Diputación Foral de Álava and Others and Commission of the European Communities

(Case C-186/02 P)

(2002/C 191/26)

An appeal against the judgment delivered on 6 March 2002 by the Third Chamber, Extended Composition, of the Court of First Instance of the European Communities in Joined Cases T-92/00 and T-103/00 between Territorio Histórico de Álava — Diputación Foral de Álava and Others and Commission of the European Communities was brought before the Court of Justice of the European Communities on 17 May 2002 by Ramondín SA and Ramondín Cápsulas SA, represented by Javier Lazcano-Iturburu Ayestaran, abogado, Gran Vía 55, Logroño (La Rioja), Spain.

The appellants claim that the Court should:

1. declare the present appeal admissible and consequently:
2. set aside the judgment of the Court of First Instance of 6 March 2002 and annul the decision of the European Commission of 22 December 1999 in so far as it declares incompatible with the common market the fiscal measures laid down in Normas Forales (regional Laws) No 22/94 and 24/96 applicable to the appellants, Ramondín SA y Ramondín Cápsulas SA, and requires the Spanish State to recover them, and order the Commission to pay the costs of the proceedings.

Pleas in law and main arguments

Misuse of powers, discrimination, absence of effect on competition between undertakings and absence of effect on intra-Community trade: Neither the Government of the Rioja in its complaint nor the European Commission in its contested decision have been concerned with distortion of competition since their action against Ramondín was motivated by other interests and the judgment makes an error of assessment of the conditions governing State aid. The appellants flatly deny the specific and selective nature of the contested aid claimed by the Commission and found in the judgment at first instance on the basis that the regional Law in question possesses those characteristics, since it harms those taxable persons to whom it does not apply where they are not located within the relevant territorial jurisdiction of the authority which enacted the legislation but are based within the wider national territory Member State. That argument cannot be accepted, since towns or regions with legislative powers may act only within their own territories and within the limit of their powers, just like genuine full Member States, so that State aid proceedings are inappropriate, the matter being one of tax harmonisation, which clearly falls outside the Commission's powers.

The Administración Foral (Regional Authority) had no discretion either to include or exclude Ramondín from the legislation at issue, provided it fulfilled the relevant conditions.

In the alternative: if the Court should find that the measures at issue were selective, those measures are justified by the nature and structure of the scheme.

Ramondín was discriminated against when proceedings were brought against it specifically but not against the other undertakings concerned by the same Alava regional legislation, or by similar legislation enacted by the other Basque authorities, the Navarrese authorities by extension and by many other territorial authorities in various Community countries.

No competitor has complained about the grant of alleged State aid, nor has it lodged a complaint with any institution or body either formally or informally against the hypothetical advantages granted, nor have any complaints by third parties been upheld.