

# **Action brought on 27 August 2002 by the Commission of the European Communities against the French Republic**

**(Case C-304/02)**

(2002/C 247/14)

An action against the French Republic was brought before the Court of Justice of the European Communities on 27 August 2002 by the Commission of the European Communities, represented by M. van Lier and M. van Rijn, acting as Agents, with an address for service in Luxembourg.

The Commission of the European Communities claims that the Court should:

- Declare that, by continuing to fail to undertake control activities ensuring compliance with the technical measures for the conservation of fishery resources laid down in Council Regulation (EEC) No 171/83 of 25 January 1983<sup>(1)</sup> and Council Regulation (EEC) No 3094/86 of 7 October 1986<sup>(2)</sup>, and by thus failing to comply with the obligations laid down in Article 1 of Council Regulation (EEC) No 2057/82 of 29 June 1982 establishing certain control measures for fishing activities by vessels of the Member States<sup>(3)</sup> and Article 1 of Council Regulation (EEC) No 2241/87 of 23 July 1987 establishing certain control measures for fishing activities<sup>(4)</sup>, the French Republic has failed to apply all the measures necessary to implement the judgment of 11 June 1991, *Commission v France* (C-64/88)<sup>(5)</sup> and has failed to fulfil its obligations under Article 228 of the EC Treaty;
- Order the French Republic to pay to the Commission of the European Communities, into the account 'own resources of the EC', a penalty of EUR 316 500 per day of delay in implementing the necessary measures to comply with the judgment in *Commission v France* cited above, starting from the delivery of the present judgment and until the implementation of the judgment in *Commission v France*, cited above;
- Order the French Republic to pay the costs.

## *Pleas in law and main arguments*

- Infringement of Community law, Article 228 EC:

The Commission states that France did not act on the judgment of 11 June 1991 in Case C-64/88, in that it

- failed to ensure compliance with technical conservation measures relating to the minimum size of fish, in particular hake, and

- failed to record infringements which the national authorities could have found to exist and to charge offenders.

The apparent absence of control activities was recorded during frequent inspections over several years and notwithstanding the improvements in methods of control and the number of inspections which the French authorities pointed out in their correspondence with the Commission services. In addition, the Commission never denied that there had been findings of infringements. None the less, it determined, and complained to the French authorities, that the inspections were insufficient in number and lacking in thoroughness and that there are indications that turning a blind eye to breaches related to certain undersized fish is generally tolerated.

- Penalty

The Commission, referring to its communications of 21 August 1996<sup>(6)</sup> and 28 February 1997<sup>(7)</sup>, is applying to the basic amount of EUR 500 a factor of 10 (out of a possible maximum of 20) for the seriousness of the infringement, taking account in particular of the reduction of complaints in relation to the initial infringement, a factor of 3 (possible maximum: 3) for its duration and a factor of 2.1 for France's ability to pay.

<sup>(1)</sup> OJ L 24 of 27.01.1983, p. 14.

<sup>(2)</sup> OJ L 288 of 11.10.1986, p. 1.

<sup>(3)</sup> OJ L 220 of 29.7.1982, p. 1.

<sup>(4)</sup> OJ L 207 of 29.7.1987, p. 1.

<sup>(5)</sup> ECR [1991] I-2748.

<sup>(6)</sup> OJ C 242, p. 6.

<sup>(7)</sup> OJ C 63, p. 2.

# **Action brought on 28 August 2002 by the Commission of the European Communities against the United Kingdom**

**(Case C-305/02)**

(2002/C 247/15)

An action against the United Kingdom was brought before the Court of Justice of the European Communities on 28 August 2002 by the Commission of the European Communities, represented by Lena Ström, acting as agent, with an address for service in Luxembourg.

The Applicant claims that the Court should:

- 1) declare that by failing to adopt for Gibraltar the laws, regulations and administrative provisions necessary to comply with Commission Directive 2000/21/EC <sup>(1)</sup> of 25 April 2000 concerning the list of Community legislation referred to in the fifth indent of Article 13(1) of Council Directive 67/548/EEC <sup>(2)</sup>, or in any event, by failing to notify such provisions to the Commission, the United Kingdom has failed to fulfil its obligations under that directive;
- 2) order the United Kingdom to pay the costs.

*Pleas in law and main arguments*

The Commission considers that it is the duty of the authorities of the United Kingdom to initiate, in due time, the procedures necessary for incorporating the directive into domestic law so that such process is complete within the time-limit laid down, irrespective of the nature of such procedures, and to inform the Commission thereof.

Since the United Kingdom has not informed the Commission of the provisions adopted to comply with the directive concerned for Gibraltar, the United Kingdom has thus failed to fulfil its obligations under the directive as regards Gibraltar.

<sup>(1)</sup> OJ L 103, 28.4.2000, p. 70.

<sup>(2)</sup> of 27 June 1967 on the approximation of laws, regulations and administrative provisions relating to the classification, packaging and labelling of dangerous substances (OJ 196, 16.8.1967, p. 1 [SE SER1 71(I) p. 180].

**Action brought on 29 August 2002 by Commission of the European Communities against French Republic**

**(Case C-307/02)**

(2002/C 247/16)

An action against the French Republic was brought before the Court of Justice of the European Communities on 29 August 2002 by the Commission of the European Communities, represented by Lena Ström, acting as Agent, with an address for service in Luxembourg.

The applicant claims that the Court should:

- declare that, by failing to adopt the laws, regulations or administrative provisions necessary to comply with Commission Directive 2000/21/EC <sup>(1)</sup> of 25 April 2000 concerning the list of Community legislation referred to in the fifth indent of Article 13(1) of Council Directive 67/548/EEC, the French Republic failed to fulfil its obligations under Article 3 of that directive;
- order the French Republic to pay the costs.

*Pleas in law and main arguments*

The obligations flowing from the third paragraph of Article 249 of the EC Treaty includes that of observing the time-limits laid down in directives. That time-limit expired on 1 April 2002 without France having brought into force the necessary provisions.

<sup>(1)</sup> OJ 2000 L 103, p. 70.

**Action brought on 29 August 2002 by Commission of the European Communities against Grand Duchy of Luxembourg**

**(Case C-308/02)**

(2002/C 247/17)

An action against the Grand Duchy of Luxembourg was brought before the Court of Justice of the European Communities on 29 August 2002 by the Commission of the European Communities, represented by Lena Ström, acting as Agent, with an address for service in Luxembourg.

The applicant claims that the Court should:

- declare that, by failing to adopt the laws, regulations or administrative provisions necessary to comply with Commission Directive 2000/21/EC <sup>(1)</sup> of 25 April 2000 concerning the list of Community legislation referred to in the fifth indent of Article 13(1) of Council Directive 67/548/EEC, the Grand Duchy of Luxembourg failed to fulfil its obligations under Article 3 of that directive;
- order the Grand Duchy of Luxembourg to pay the costs.