

Action brought on 10 January 2003 by the Commission of the European Communities against the Grand-Duchy of Luxembourg

(Case C-9/03)

(2003/C 55/25)

An action against the Grand-Duchy of Luxembourg was brought before the Court of Justice of the European Communities on 10 January 2003 by the Commission of the European Communities, represented by D. Martin and M. França, acting as Agents, with an address for service in Luxembourg.

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

- Declare that, by failing to bring into force the laws, regulations and administrative provisions necessary to comply with Directive 98/27/EC of the European Parliament and of the Council of 19 May 1998 on injunctions for the protection of consumers' interests⁽¹⁾, the Grand-Duchy of Luxembourg has failed to fulfil its obligations under that directive;
- Order the Grand-Duchy of Luxembourg to pay the costs.

Pleas in law and main arguments

The period for transposition laid down in Article 8 of the directive expired on 1 January 2001.

⁽¹⁾ OJ 1998 L 166, p. 51.

Reference for a preliminary ruling by the Raad van State, Afdeling Administratie by order of that Court of 9 December 2002 in the case of NV Boss Pharma against Belgian State, represented by the Minister for Economic Affairs

(Case C-11/03)

(2003/C 55/26)

Reference has been made to the Court of Justice of the European Communities by order of the Raad van State, Afdeling Administratie (Council of State, Administrative Division) of 9 December 2002, received at the Court Registry on 13 January 2003, for a preliminary ruling in the case of NV Boss Pharma against Belgian State, represented by the Minister for Economic Affairs on the following question:

On a proper interpretation, does Article 2(2) of Council Directive 89/105/EEC⁽¹⁾ of 21 December 1988 relating to the transparency of measures regulating the prices of medicinal

products for human use and their inclusion in the scope of national health insurance systems, under which a decision of the competent national authority refusing permission to market a medicinal product at the price proposed by the applicant must contain a statement of reasons 'based on objective and verifiable criteria', mean that the competent authority under domestic Belgian legislation must lay down in advance by way of a generally applicable provision the criteria to be taken into consideration by the authority ruling on the individual application, or is the decision-making authority permitted to state in each individual decision the objective and verifiable criteria on which it based its refusal, in that case, to grant the application, or is it sufficient for the authority to provide a formal statement of the reasons for its individual decision by citing actual evidence from the file and for the courts then to review whether that evidence constitutes an objective and verifiable criterion?

⁽¹⁾ OJ L 40 of 11.02.1989, p. 8.

Action brought on 14 January 2003 by the Commission of the European Communities against the Republic of Austria

(Case C-15/03)

(2003/C 55/27)

An action against the Republic of Austria was brought before the Court of Justice of the European Communities on 14 January 2003 by the Commission of the European Communities, represented by Dr Jürgen Grunwald, legal adviser of the European Commission and Minas Konstantinidis, of its legal service, with an address for service at the office of Luis Escobar Guerrero, of the Commission's legal service, Wagner Centre C 254, Luxembourg-Kirchberg.

The applicant claims that the Court should:

1. Declare that the Republic of Austria has infringed its obligations under Article 3(1) of Council Directive 75/439/EEC of 16 June 1975 on the disposal of waste oils⁽¹⁾ by failing to take the legal and practical measures necessary to ensure that priority is given to the treatment by way of regeneration of waste oils, so long as that is not precluded by technical, financial and organisational constraints.
2. Order the Republic of Austria to pay the costs.