

Action brought on 23 January 2003 by the Commission of the European Communities against the Kingdom of Belgium

(Case C-27/03)

(2003/C 70/17)

An action against the Kingdom of Belgium was brought before the Court of Justice of the European Communities on 23 January 2003 by the Commission of the European Communities, represented by G. Valero Jordana and M. Van Beek, acting as Agents.

The applicant claims that the Court should:

— declare that,

in so far as the Region of the Capital City of Brussels, the Flemish Region and the Walloon Region are concerned, the Kingdom of Belgium failed to ensure that systems for the collection and treatment of urban waste water were brought into operation on 31 December 1998, as provided for in Articles 3 and 5 of Directive 91/271/EEC ⁽¹⁾,

in so far as the Walloon Region is concerned, the Kingdom of Belgium has not forwarded to the Commission an implementation programme, as provided for in Article 17 of Directive 91/271/EEC, which complies with the directive from the point of view of the time-limits laid down; and

in so far as the Region of the Capital City of Brussels is concerned, the Kingdom of Belgium has not forwarded to the Commission an implementation programme which complies fully with the format prescribed by Commission Decision 93/481/EEC ⁽²⁾;

— order the Kingdom of Belgium to pay the costs.

Pleas in law and main arguments

— As far as the Region of the Capital City of Brussels and a large number of agglomerations of the Flemish Region are concerned, the time-limit of 31 December 1998 for the entry into service of systems for the collection and treatment of urban waste water was not complied with. Discharges of urban waste water from 44 agglomerations with a population equivalent of more than 10 000 in the territory of the Walloon Region contribute to the pollution of Flanders and Netherlands territory and the North Sea coasts of Belgium and the Netherlands. The Walloon Region ought therefore to have applied Article 5(5) of the directive and made provision for tertiary treatment for the agglomerations in question.

- The implementation programme of the Region of the Capital City of Brussels does not contain the information required pursuant to Table 2.3 of Decision 93/481/EEC as regards the number and capacity of collection systems discharging into receiving waters which are considered 'sensitive areas'.
- It is apparent from the part of the Walloon implementation programme relating to the implementation of Article 3 of the directive in normal areas that the collection systems to which agglomerations with a population equivalent of more than 15 000 will be connected will not reach their definitive capacity until 31 December 2005, whereas the directive lays down a time-limit of 31 December 2000. It is also apparent from the part of the Walloon programme relating to the implementation of Article 4 of the directive in normal areas that the water treatment plants to which agglomerations with a population equivalent of more than 15 000 and less than 150 000 will be connected will not reach their definitive capacity until 31 December 2005, whereas the directive lays down a time-limit of 31 December 2000.

⁽¹⁾ Council Directive 91/271/EEC of 21 May 1991 concerning urban waste-water treatment (OJ 1991 L 135, p. 40).

⁽²⁾ Commission Decision 93/481/EEC of 28 July 1993 concerning formats for the presentation of national programmes as foreseen by Article 17 of Council Directive 91/271/EEC (OJ 1993 L 226, p. 23).

Reference for a preliminary ruling by the Simvoulio tis Epikratias by order of that Court of 23 October 2002 in the case of Epikouriko Kefalaio Asfaliseos Efthinis ex Atikhimaton Aftokiniton against the Minister for Development

(Case C-28/03)

(2003/C 70/18)

Reference has been made to the Court of Justice of the European Communities by order of the Simvoulio tis Epikratias (Council of State) of 23 October 2002, received at the Court Registry on 24 January 2003, for a preliminary ruling in the case of Epikouriko Kefalaio Asfaliseos Efthinis ex Atikhimaton Aftokiniton (Additional Insurance Fund for Motor Vehicle Accident Liability) against the Minister for Development on the following question:

Given the provisions of, in particular, Articles 15 and 16 of First Council Directive 73/239/EEC on the coordination of laws, regulations and administrative provisions relating to the taking up and pursuit of the business of direct insurance other

than life assurance⁽¹⁾, as supplemented and amended by Second Council Directive 88/357/EEC⁽²⁾ and Third Council Directive 92/49/EEC⁽³⁾, and Articles 17 and 18 of First Council Directive 79/267/EEC on the coordination of laws, regulations and administrative provisions relating to the taking up and pursuit of the business of direct life assurance⁽⁴⁾, as amended and supplemented by Second Council Directive 90/619/EEC⁽⁵⁾ and Third Council Directive 92/96/EEC⁽⁶⁾, may the national legislature provide that, where an insurance company is the subject of insolvency proceedings, is put into liquidation or is otherwise in a state of insolvency, claims arising from an employment relationship with it are satisfied from the assets which are included in its technical provisions in preference to claims of persons entitled to an insurance payment and of successors to all or certain of their rights?

(1) OJ L 228 of 16.08.1973, p. 3.

(2) OJ L 172 of 04.07.1988, p. 1.

(3) OJ L 228 of 11.08.1992, p. 1.

(4) OJ L 63 of 13.03.1979, p. 1.

(5) OJ L 330 of 29.11.1990, p. 50.

(6) OJ L 360 of 09.12.1992, p. 1.

Action brought on 27 January 2003 by Commission of the European Communities against ITEC-Instituto Tecnológico para a Europa Comunitária

(Case C-29/03)

(2003/C 70/19)

An action against ITEC-Instituto Tecnológico para a Europa Comunitária was brought before the Court of Justice of the European Communities on 27 January 2003 (previously brought before the Court of First Instance on 17 January 2003) by the Commission of the European Communities, represented by G. Braga da Cruz and C. Giolito, acting as Agents, with an address for service in Luxembourg.

The applicant claims that the Court should:

- (a) order the defendant to pay EUR 69 089,84 consisting of EUR 62 236,65 as a capital amount and EUR 6 853,19 by way of interest until 31 December 2002 at the rate 6,28 %;
- (b) order payment of EUR 10,71 per diem, by way of interest at the same rate from 31 December 2002 until full payment is made;
- (c) order the defendant to pay the costs.

Pleas in law and main arguments

Under Article 7 of the General Conditions of the Contract, the Court of First Instance of the European Communities and, on appeal, the Court of Justice of the European Communities have jurisdiction in any action concerning the validity, application and interpretation of the contract.

Since the abovementioned amounts, overpaid by the Commission, have not been repaid, the defendant failed to fulfil its obligations under the contract.

Action brought on 27 January 2003 by Commission of the European Communities against ITEC-Instituto Tecnológico para a Europa Comunitária

(Case C-30/03)

(2003/C 70/20)

An action against ITEC-Instituto Tecnológico para a Europa Comunitária was brought before the Court of Justice of the European Communities on 27 January 2003 by the Commission of the European Communities, represented by G. Braga da Cruz and C. Giolito, acting as Agents, with an address for service in Luxembourg.

The applicant claims that the Court should:

- (a) order the defendant to pay EUR 29 538,01, consisting of EUR 26 105,97 as a capital amount and EUR 3 432,04 by way of interest until 31 December 2002 at the rate 5,25 %;
- (b) order payment of EUR 3,75 per diem, by way of interest at the same rate from 31 December 2002 until full payment is made;
- (c) order the defendant to pay the costs.

Pleas in law and main arguments

Under Article 12(2) of the contract, the Court of First Instance of the European Communities and, on appeal, the Court of Justice of the European Communities have jurisdiction in any action concerning the validity, application and interpretation of the contract.