

and control system for certain Community aid schemes, there is an irregularity giving rise to a penalty under Article 10(2)(a) of that regulation, the competent authorities must apply retroactively the provisions of Article 44(1) of Commission Regulation (EC) No 2419/2001 of 11 December 2001 laying down detailed rules for applying the integrated administration and control system for certain Community aid schemes established by Council Regulation (EEC) No 3508/92, on the ground that those provisions are less severe as regards the conduct in question.

(¹) OJ C 261 of 26.10.2002.

JUDGMENT OF THE COURT

(Third Chamber)

of 1 July 2004

in Joined Cases C-361/02 and C-362/02 (references for a preliminary ruling from the the Diikitiko Efetio Piraeus): Elliniko Dimosio v Nikolaos Tsapalos and Konstantinos Diamantakis (¹)

(Directive 76/308/EEC — Mutual assistance for the recovery of customs duties — Application to claims which arose prior to the entry into force of the Directive)

(2004/C 217/06)

(Language of the case: Greek)

(Provisional translation; the definitive translation will be published in the European Court Reports)

In Joined Cases C-361/02 and C-362/02: references to the Court under Article 234 EC from the Diikitiko Efetio Piraeus (Greece) for a preliminary ruling in the proceedings pending before that court between Elliniko Dimosio and Nikolaos Tsapalos (C-361/02), Konstantinos Diamantakis (C-362/02) — on the interpretation of Article 1 of Council Directive 76/308/EEC of 15 March 1976 on mutual assistance for the recovery of claims resulting from operations forming part of the system of financing the European Agricultural Guidance and Guarantee Fund, and of the agricultural levies and customs duties, and in respect of value added tax and certain excise duties (OJ 1976 L 73, p. 18), as amended by the Act concerning the conditions of accession of the Republic of Austria, the Republic of Finland and the Kingdom of Sweden and the adjustment to the Treaties on which the European Union is founded (OJ 1994 C 241, p. 21) — the Court (Third Chamber), composed of: A. Rosas, President of the Chamber, R. Schintgen (Rapporteur) and N. Colneric, Judges; J. Kokott, Advocate General; M. Múgica Arzamendi, Principal Adminis-

trator, for the Registrar, has given a judgment on 1 July 2004, in which it has ruled:

Council Directive 76/308/EEC of 15 March 1976 on mutual assistance for the recovery of claims resulting from operations forming part of the system of financing the European Agricultural Guidance and Guarantee Fund, and of the agricultural levies and customs duties, and in respect of value added tax and certain excise duties as amended by the Act concerning the conditions of accession of the Republic of Austria, the Republic of Finland and the Kingdom of Sweden and the adjustments to the Treaties on which the European Union is founded, is to be interpreted as applying to customs claims which arose in one Member State under an instrument issued by that State before that directive entered into force in the other Member State, where the requested authority is situated.

(¹) OJ C 305 of 7.12.2002.

JUDGMENT OF THE COURT

(Fourth Chamber)

of 8 July 2004

Case C-27/03: Commission of the European Communities v Kingdom of Belgium (¹)

(Member State's failure to fulfil obligations — Environment — Directive 91/271/EEC — Decision 93/481/EEC — Collection and treatment of urban waste water — Failure to transpose within the period prescribed)

(2004/C 217/07)

(Language of the case: Dutch)

In Case C-27/03: Commission of the European Communities (Agents: G. Valero Jordana and M. van Beek) v Kingdom of Belgium (Agent: A. Snoecx, assisted by A. Cornet) — application for a declaration that, by failing to adopt the laws, regulations or administrative provisions necessary to the full implementing of Articles 3, 5 and 17 — the last being read in conjunction with Articles 3 and 4 — of Directive 91/271/EEC of the Council of 21 May 1991 concerning urban waste-water treatment (OJ 1991 L 135, p. 40), and of Commission Decision 93/481/EEC of 28 July 1993 concerning formats for the presentation of national programmes as foreseen by Article 17 of Directive 91/271/EEC (OJ 1993 L 226, p. 23), the Kingdom of Belgium has failed to fulfil its obligations under that directive and that decision — the Court (Fourth Chamber), composed of: J.N. Cunha Rodrigues, President of the Chamber, J.-P. Puissochet and F. Macken (Rapporteur), Judges; F.G. Jacobs, Advocate General; R. Grass, Registrar, has given a judgment on 8 July 2004 in which it:

1. Declares that, by failing to adopt the laws, regulations or administrative provisions necessary to the full implementing of Articles 3, 5 and 17 — the last being read in conjunction with Articles 3 and 4 — of Directive 91/271/EEC of the Council of 21 May 1991 concerning urban waste-water treatment (OJ 1991 L 135, p. 40), and of Commission Decision 93/481/EEC of 28 July 1993 concerning formats for the presentation of national programmes as foreseen by Article 17 of Directive 91/271/EEC (OJ 1993 L 226, p. 23), the Kingdom of Belgium has failed to fulfil its obligations under Article 226 EC and under that directive and that decision.

2. Orders the Kingdom of Belgium to pay the costs.

(¹) OJ C 70 of 22 March 2003.

JUDGMENT OF THE COURT

(Third Chamber)

of 1 July 2004

in Case C-65/03: Commission of the European Communities v Kingdom of Belgium (¹)

(Failure of a Member State to fulfil obligations — Articles 12 EC, 149 EC and 150 EC — Secondary education diploma awarded in another Member State — Access to higher education)

(2004/C 217/08)

(Language of the case: French)

(Provisional translation; the definitive translation will be published in the European Court Reports)

In Case C-65/03: Commission of the European Communities (Agent: D. Martin) v Kingdom of Belgium (Agent: A. Snoecx) — application for a declaration that, by failing to take the measures necessary to ensure that holders of secondary education diplomas awarded in other Member States can gain access to higher education organised by Belgium's French Community under the same conditions as holders of the certificat d'enseignement secondaire supérieur (CESS), the Kingdom of Belgium has failed to fulfil its obligations under Articles 12 EC, 149 EC and 150 EC — the Court (Third Chamber), composed of: A. Rosas, President of the Chamber, R. Schintgen and N. Colneric (Rapporteur), Judges; C. Stix-Hackl, Advocate General; R. Grass, Registrar, has given a judgment on 1 July 2004, in which it:

1. Declares that, by failing to take the measures necessary to ensure that holders of secondary education diplomas obtained in other Member States can gain access to higher education organised by Belgium's French Community under the same conditions as holders of the certificat d'enseignement secondaire supérieur (CESS), the Kingdom of Belgium has failed to fulfil its obligations

under Article 12 EC, read in conjunction with Articles 149 EC and 150 EC;

2. Orders the Kingdom of Belgium to pay the costs.

(¹) OJ C 83 of 5.4.2003.

JUDGMENT OF THE COURT

(Fourth Chamber)

of 8 July 2004

in Case C-127/03: Commission of the European Communities v Trendsoft (Irl) Ltd (¹)

(Arbitration clause — Repayment of sums advanced — Interest for late payment — Judgment by default)

(2004/C 217/09)

(Language of the case: English)

In Case C-127/03: Commission of the European Communities (Agents: L. Flynn and C. Giolito) v Trendsoft (Irl) Ltd, established in Dublin (Ireland), — application by the Commission of the European Communities under Article 238 EC for repayment of the sum of EUR 21 303 paid by the Commission to the defendant in connection with the performance of contract No EP 23697 together with interest for late payment — the Court (Fourth Chamber), composed of: J.N. Cunha Rodrigues, President of the Chamber, F. Macken (Rapporteur) and K. Lenaerts, Judges; M. Poiares Maduro, Advocate General; R. Grass, Registrar, has given a judgment on 8 July 2004, in which it:

1. Orders Trendsoft (Irl) Ltd to pay the Commission of the European Communities the sum of EUR 21 303 due as principal sum, together with interest for late payment:

— at the rate of 6.09 % per annum from 31 August 2000 to 31 December 2002;

— at the rate of 8 % per annum from 1 January 2003 to the date of the present judgment;

— at the annual rate applied under the law of Ireland, currently section 26 of the Debtors (Ireland) Act, 1840, as amended, in accordance with section 20 of the Courts Act, 1981, by regulation 3 of the Courts Act, 1981 (Interest on Judgment Debts) Order, 1989, up to a limit of a rate of 8.09 % per annum, from the date of the present judgment;

2. Orders Trendsoft (Irl) Ltd to pay the costs.

(¹) OJ C 112 of 10.5.2003.