

Action brought on 14 February 2006 by the Commission of the European Communities against the Republic of Austria

(Case C-91/06)

(2006/C 96/09)

(Language of the case: German)

An action against the Republic of Austria was brought before the Court of Justice of the European Communities on 14 February 2006 by the Commission of the European Communities, represented by B. Schima and F. Simonetti, acting as Agents, with an address for service in Luxembourg.

The Commission claims that the Court should:

1. declare that, by failing to adopt all the laws, regulations and administrative provisions necessary to comply with Directive 2001/42/EC of the European Parliament and of the Council of 27 June 2001 on the assessment of the effects of certain plans and programmes on the environment ⁽¹⁾ or by failing to communicate those provisions to the Commission, the Republic of Austria has failed to fulfil its obligations under Article 13(1) of that directive;
2. order the Republic of Austria to pay the costs.

Pleas in law and main arguments

The period prescribed for transposing Directive 2001/42 into national law expired on 21 July 2004.

⁽¹⁾ OJ L 197, 21.7.2001, p. 30.

Reference for a preliminary ruling from the Finanzgericht Hamburg by order of that court of 23 January 2006 in Viamex Agrar Handels GmbH v Hauptzollamt Hamburg-Jonas

(Case C-96/06)

(2006/C 96/10)

(Language of the case: German)

Reference has been made to the Court of Justice of the European Communities by order of the Finanzgericht Hamburg (Germany) of 23 January 2006, received at the Court Registry on 17 February 2006, for a preliminary ruling in the proceedings between Viamex Agrar Handels GmbH and Hauptzollamt Hamburg-Jonas on the following questions:

1. Does Article 5(3) of Regulation No 615/98 ⁽¹⁾ constitute an exclusion, with the consequence that the burden of proof in respect of the requirements of Article 5(3) of Regulation No 615/98 is on the Principal Customs Office?
2. If the first question is answered in the affirmative: In order to conclude under Article 5(3) of Regulation No 615/98 that the directive has not been complied with, is it necessary to have proof that there has been an infringement of Directive 91/628/EEC ⁽²⁾ in the particular case, or does the competent authority discharge its burden of proof if it relies on and provides evidence of circumstances which in an overall view indicate a material probability that the directive on the protection of animals during transport has not been complied with (also) in relation to the export consignment in question?
3. Irrespective of the answers to questions 1 and 2: May the competent authority refuse to pay (all of) the export refund to the exporter under Article 5(3) of Regulation No 615/98 where there are no indications that the (potential) infringement of Directive 91/628/EEC has in fact been deleterious to the wellbeing of the animals during transport in relation to the export consignment in question?

⁽¹⁾ OJ L 82 of 19.3.1998, p. 19.

⁽²⁾ OJ L 240 of 11.12.1991, p. 17.

Reference for a preliminary ruling from the Oberlandesgerichts Stuttgart by order of that court of 7 February 2006 in Raiffeisenbank Mutlangen eG v Roland Schabel, other parties: 1. President of the Landgericht Unkel (Regional Court, Unkel), 2. District Auditor Stiglmair

(Case C-99/06)

(2006/C 96/11)

(Language of the case: German)

Reference has been made to the Court of Justice of the European Communities by order of the Oberlandesgerichts Stuttgart of 7 February 2006, received at the Court Registry on 21 February 2006, for a preliminary ruling in the proceedings between Raiffeisenbank Mutlangen eG and Roland Schabel, other parties: 1. President of the Landgericht Unkel (Regional Court, Unkel), 2. District Auditor Stiglmair on the following question: