Form of order sought

— Declare that, by failing to draw up or, in any event, to transmit the report required under Article 9 of Directive 1999/94/EC of the European Parliament and of the Council of 13 December 1999 relating to the availability of consumer information on fuel economy and CO_2 emissions in respect of the marketing of new passenger cars ([1]), the Grand-Duchy of Luxembourg has failed to fulfil its obligations under Article 9 of that directive;

— order the Grand-Duchy of Luxembourg to pay the costs.

Pleas in law and main arguments

The Grand-Duchy of Luxembourg was required to transmit to the Commission, no later than 31 December 2003, a report on the effectiveness of the provisions of the directive, covering the period from 18 January 2001 to 31 December 2002.

([1]) OJ 2000 L 12, p. 16.

Reference for a preliminary ruling from the Tribunal de Première Instance de Bruxelles lodged on 4 May 2006 — Raffinerie Tirlemontoise SA v Bureau d'Intervention et de Restitution Belge (BIRB)

(Case C-200/06)

(2006/C 165/28)

Language of the case: French

Referring court

Tribunal de Première Instance de Bruxelles

Parties to the main proceedings

Applicant: Raffinerie Tirlemontoise SA

Defendant: Bureau d'Intervention et de Restitution Belge (BIRB)

Questions referred

1) Does Commission Regulation 314/2002 ([1]) provide, with regard to calculation of the production levy, for exclusion from the financing needs of the quantities of sugar contained in processed products which are exported without export refunds? Is this legislation invalid in the light of Article 15 of Council Regulation (EC) No 1260/2001 on the common organisation of the markets in the sugar sector ([2]) and in the light of the principles of proportionality and non-discrimination?

2) Do Commission Regulations Nos 1775/2004 ([3]), 1762/2003 ([4]), 1837/2002 ([5]), 1993/2001 ([6]) and 2267/2000 ([7]) lay down a production levy for sugar calculated on the basis of the 'average loss' per tonne exported, which does not take into account the quantities exported without a refund, although these quantities are included in the total used to evaluate the overall loss to be financed? Are these Regulations invalid in the light of Commission Regulation No 314/2002, Article 15 of Council Regulation No 1260/2001 and the principle of proportionality?

([1]) Commission Regulation (EC) No 314/2002 of 20 February 2002 laying down detailed rules for the application of the quota system in the sugar sector (OJ 2002 L 50, p. 40)

([2]) Council Regulation (EC) No 1260/2001 of 19 June 2001 on the common organisation of the markets in the sugar sector (OJ 2001 L 178, p. 1)

([3]) Commission Regulation (EC) No 1775/2004 of 14 October 2004 setting the production levies in the sugar sector for the 2003/04 marketing year (OJ 2004 L 316, p. 64)

([4]) Commission Regulation (EC) No 1762/2003 of 7 October 2003 fixing the production levies in the sugar sector for the 2002/03 marketing year (OJ 2003 L 254, p. 4)

([5]) Commission Regulation (EC) No 1837/2002 of 15 October 2002 fixing the production levies and the coefficient for the additional levy in the sugar sector for the marketing year 2001/02 (OJ 2002 L 278, p. 13)

([6]) Commission Regulation (EC) No 1993/2001 of 11 October 2001 fixing the production levies in the sugar sector for the 2000/01 marketing year (OJ 2001 L 271, p. 15)

([7]) Commission Regulation (EC) No 2267/2000 of 12 October 2000 fixing the production levies and the coefficient for calculating the additional levy in the sugar sector for the 1999/2000 marketing year (OJ 2000 L 259, p. 29)

Action brought on 4 May 2006 — Commission of the European Communities v French Republic

(Case C-201/06)

(2006/C 165/29)

Language of the case: French

Parties

Applicant: Commission of the European Communities (represented by: B. Stromsky, Agent)

Defendant: French Republic

Form of order sought

— Declare that, by requiring that a parallel imported plant protection product and a reference product have a common origin, the French Republic has failed to fulfil its obligations under Article 28 EC;

— order the French Republic to pay the costs.

Pleas in law and main arguments

In France, the grant and continuation of an import authorisation in respect of parallel imports of plant protection products from another Member State where they are lawfully placed on the market are subject to the requirement that parallel imported plant protection products and reference products have a common origin.

This constitutes a restriction on the free movement of plant protection products that is incompatible with Article 28 EC, is not justified on grounds of the protection of public health, animal health or the environment and is disproportionate in relation to the goal to be achieved.

Action brought on 5 May 2006 — Commission of the European Communities v Republic of Austria

(Case C-205/06)

(2006/C 165/30)

Language of the case: German

Parties

Applicant: Commission of the European Communities (represented by: H. Støvlbæk and B. Martenczuk, acting as Agents)

Defendant: Republic of Austria

Form of order sought

— declare that, by not taking suitable measures to eliminate incompatibilities in relation to the provisions concerning transfers in the bilateral investment agreements with Korea, Cape Verde, China, Malaysia, the Russian Federation and Turkey, the Republic of Austria has failed to fulfil its obligations under second paragraph of Article 307 of the EC Treaty;

— order the Republic of Austria to pay the costs.

Pleas in law and main arguments

Article 307 of the EC Treaty requires the Member States to take all appropriate steps to eliminate the incompatibilities established with the EC Treaty of the agreements concluded by them prior to 1 January 1958 or before accession to the European Community.

The Commission considers that the provisions on the free transfer of investment related payments in the bilateral investment agreements which the Republic of Austria concluded with Korea, Cape Verde, China, Malaysia, the Russian Federation and Turkey before its accession to the European Community are incompatible with the EC Treaty. This is because they do not allow the Republic of Austria to apply restrictions on capital or payments which the Council of the European Union may adopt on the basis of Articles 57(2), 59 and 60(1) of the EC Treaty.

The Austrian Government's argument that the way in which it votes in the Council is not predetermined by the agreements is irrelevant. The only relevant issue is whether the Republic of Austria can carry out — in conformity with its obligations under international law — the restrictive measures in a particular case. The provisions of the Austrian investment agreements in dispute show that this is not the case. Likewise, the argument that Austria alone cannot prevent the Council from adopting a decision by a qualified majority is not decisive for the same reason.

Since, in the present case, an incompatibility with the EC Treaty exists, Austria is under an obligation to take appropriate steps to eliminate it. If no other means are available, however, Austria could — according to the case-law of the Court of Justice — be obliged to abrogate the agreement at issue.

Reference for a preliminary ruling from the Szegedi Ítélőtábla (Court of Appeal Szeged) lodged on 5 May 2006 — CARTESIO Oktató és Szolgáltató Betéti Társaság

(Case C-210/06)

(2006/C 165/31)

Language of the case: Hungarian

Referring court

Szegedi Ítélőtábla (Court of Appeal Szeged)