

Action brought on 27 July 2006 — Commission of the European Communities v Ireland

(Case C-330/06)

(2006/C 224/56)

Language of the case: English

Parties

Applicant: Commission of the European Communities (represented by: J. Enegren, Agent)

Defendant: Ireland

The applicant claims that the Court should:

- declare that, by failing to adopt the laws, regulations and administrative provisions necessary to comply with Council Directive 2001/86/EC⁽¹⁾ of 8 October 2001 supplementing the Statute for a European company with regard to the involvement of employees, or in any event by failing to communicate them to the Commission, Ireland has failed to fulfil its obligations under the Directive;
- order Ireland to pay the costs.

Pleas in law and main arguments

The period within which the directive had to be transposed expired on 8 October 2004.

⁽¹⁾ OJ L 294, P. 22

Appeal brought on 1 August 2006 by the Hellenic Republic against the judgment delivered by the Court of First Instance (Second Chamber) on 20 June 2006 in Case T-251/04 Hellenic Republic v Commission of the European Communities

(Case C-332/06 P)

(2006/C 224/57)

Language of the case: Greek

Parties

Appellant: Hellenic Republic (represented by: V. Kontolaimos, State Legal Adviser, and I. Khalkias, Member of the State Legal Service)

Other party to the proceedings: Commission of the European Communities

Form of order sought

- Hold the appeal admissible;
- Set aside or alter the judgment of the Court of First Instance;
- Grant the appeal, in accordance with the form of order sought;
- Order the Commission to pay the costs.

Grounds of appeal and main arguments

1st ground of appeal: The Court of First Instance misinterpreted the fifth subparagraph of Article 5(2)(c) of Regulation No 729/70 and subparagraph (a) of the fifth subparagraph of Article 7(4) of Regulation No 1258/1999, in conjunction with Article 8(1) of Regulation No 1663/95 as amended by Article 1(3) of Regulation No 2245/99, because:

- (a) the Commission's communication did not satisfy the requirements of Article 8 of Regulation No 1663/95 and therefore could not constitute the written communication for the purposes of that article or the starting point for determining the 24-month period prescribed by Regulations Nos 729/70 and 1258/1999. Thus, on the basis of the foregoing provisions, the Commission lacked temporal competence to impose financial corrections because it did not comply with the procedure, laid down in the regulations, which requires bilateral discussion including with regard to the amount of the impending correction, the assessment of which must be included in the letter under Article 8 of Regulation No 1663/95 which sets off the 24-month period. In any event the Commission rejected expenditure referable to a time preceding the 24-month period;
- (b) the Court of First Instance made the application of Regulation No 2245/1999 retroactive in accepting that it covers expenditure not only of the financial year 2000 but also of earlier financial years.

2nd ground of appeal: The Court of First Instance misinterpreted and applied incorrectly the principles of proportionality (force majeure) and of the protection of legitimate expectations with regard to the delay in bringing rice into intervention storage because:

- (a) the exceeding by nine days of the time-limit for bringing the entire quantity of rice into storage, which was due to a strike without notice by drivers of lorries for public use, amounts to a classic case of force majeure, responsibility for which cannot be attributed to Greece, whose competent authorities did everything possible to bring in the entire quantity of rice despite the unnotified strike;

(b) the fact that the Commission was informed immediately and timeously, before the time-limit expired, that the bringing of rice into storage was delayed because of the strike and the fact that Commission did not reply immediately created justified expectations that the Commission had no objection to the delay of a few days.

Action brought on 28 July 2006 — Commission of the European Communities v Kingdom of Sweden

(Case C-333/06)

(2006/C 224/58)

Language of the case: Swedish

Parties

Applicant: Commission of the European Communities (represented by: J.R. Vidal Puig and K. Simonsson, acting as Agent)

Defendant: Kingdom of Sweden

Form of order sought

— Declare that, by failing to lay down the sanctions for infringements of the provisions of Regulation (EC) No 261/2004 of the European Parliament and of the Council of 11 February 2004 establishing common rules on compensation and assistance to passengers in the event of denied boarding and of cancellation or long delays of flights, and repealing Regulation (EEC) No 295/91⁽¹⁾, the Kingdom of Sweden has failed to fulfil its obligations under Article 16 of the directive;

— order the Kingdom of Sweden to pay the costs.

Pleas in law and main arguments

Article 16(3) of Regulation No 261/2004 requires the Member States to lay down effective, proportionate and dissuasive sanctions for infringements of the provisions of the regulation.

According to the information available to the Commission, the Kingdom of Sweden — by failing to lay down sanctions for infringements of the provisions of Article 14 of the regulation and nearly one and a half years after its entry into force — has not yet introduced a complete system of sanctions for infringements of the regulation.

⁽¹⁾ OJ L 46, 17.2.2004, p. 1.

Action brought on 4 August 2006 — Commission of the European Communities v Italian Republic

(Case C-339/06)

(2006/C 224/59)

Language of the case: Italian

Parties

Applicant: Commission of the European Communities (represented by: C. Cattabriga, Agent)

Defendant: Italian Republic

Form of order sought

— Declare that, by failing to adopt the laws, regulations and administrative provisions necessary to comply with Commission Directive 2004/116/EC⁽¹⁾ of 23 December 2004 amending the Annex to Council Directive 82/471/EEC as regards the inclusion of *Candida guilliermondii* or, in any event, by failing to communicate those provisions to the Commission, the Italian Republic has failed to fulfil its obligations under Article 2(1) of that directive;

— Order the Italian Republic to pay the costs.

Pleas in law and main arguments

The period for transposition of the directive expired on 30 June 2005.

⁽¹⁾ OJ L 379, 24.12.2004, p. 81.

Order of the President of the Court of 20 June 2006 — Kingdom of Spain v Council of the European Union

(Case C-133/04)⁽¹⁾

(2006/C 224/60)

Language of the case: Spanish

The President of the Court has ordered that the case be removed from the register.

⁽¹⁾ OJ C 106, 30.4.2004.