

Reference for a preliminary ruling from the Administrative Court, Lyon lodged on 8 September 2006 — CEDILAC v Minister for the Economy, Finance and Industry

(Case C-368/06)

(2006/C 281/39)

Language of the case: French

Referring court

Administrative Court, Lyon

Parties to the main proceedings

Applicant: CEDILAC

Defendant: Minister for the Economy, Finance and Industry

Question referred

Are the enacting provisions adopted by France to accompany the repeal of the one-month delay rule compatible with Articles 17 and 18(4) of Directive 1997/388/EEC of the Council of the European Communities of 17 May 1977? ⁽¹⁾

⁽¹⁾ Sixth Council Directive 77/388/EEC of 17 May 1977 on the harmonisation of the laws of the Member States relating to turnover taxes — Common system of value added tax : uniform basis of assessment (OJ 1977 L 145, p. 1)

Appeal brought on 13 September 2006 by Thomas Faherty against the judgment of the Court of First Instance (First Chamber) delivered on 13 June 2006 in Joined Cases T-218/03 to T-240/03: Cathal Boyle and others v Commission of the European Communities

(Case C-373/06 P)

(2006/C 281/40)

Language of the case: English

Parties

Appellant: Thomas Faherty (represented by: P. Gallagher SC, A. Collins SC, D. Barry, Solicitor)

Other parties to the proceedings: Ireland, Commission of the European Communities

Form of order sought

The applicant claims that the Court should:

- Set aside the judgment of the Court if First Instance of June 13, 2006 in so far as it dismissed the application in case T-224/03, *Thomas Faherty v. Commission* for the annulment of Commission Decision 2003/245/EC ⁽¹⁾ of 4 April 2003 on the requests received by the Commission to increase MAGP IV objectives to take into account improvements on safety, navigation at sea, hygiene, product quality and working conditions for vessels of more than 12 m in length overall as it applied to the safety capacity application for a proposed new RSW vessel to replace the MFV Westward Isle and ordered him to bear his own costs.
- Annul Commission Decision 2003/245/EC of 4 April 2003 on the requests received by the Commission to increase MAGP IV objectives to take into account improvements on safety, navigation at sea, hygiene, product quality and working conditions for vessels of more than 12 m in length overall as it applied to the safety capacity application for a proposed new RSW vessel to replace the MFV Westward Isle.
- Order the Commission to pay the costs of the entirety of these proceedings.

Pleas in law and main arguments

The appellant submits that the judgment of the Court of First Instance should be set aside on the following grounds:

By determining the appellant's interest in bringing the proceedings by reference to the date of the adoption of decision 2003/245 and not the date on which the application was lodged the Court of First Instance applied an incorrect legal test;

The Court made a substantive error apparent from the documents submitted to it, namely as to the appellant's ownership of the MFV 'Westward Isle' at all times material to the application;

The finding that the appellant was not individually concerned by decision 2003/245 'since the vessels in question are fictitious' has no basis in law and is, moreover, contradicted by the reasoning of the Court of First Instance in its judgment;