

3. Orders the French Republic to bear its own costs.

(¹) OJ C 95, 28.4.2007.

Judgment of the Court (Grand Chamber) of 9 December 2008 — Commission of the European Communities v French Republic

(Case C-121/07) (¹)

(Failure of a Member State to fulfil obligations — Directive 2001/18/EC — Deliberate release into the environment and placing on the market of GMOs — Judgment of the Court establishing the failure of a Member State to fulfil its obligations — Non-compliance — Article 228 EC — Judgment complied with during the proceedings — Pecuniary penalties)

(2009/C 44/12)

Language of the case: French

Parties

Applicant: Commission of the European Communities (represented by: B. Stromsky and C. Zadra, acting as Agents)

Defendant: French Republic (represented by: E. Belliard, S. Gasri and G. de Bergues, acting as Agents)

Intervener in support of the defendant: Czech Republic (represented by: initially, T. Boček and, subsequently, M. Smolek, acting as Agents)

Re:

Failure of a Member State to fulfil its obligations — Failure to comply with the judgment of the Court of 15 July 2004 in Case C-419/03 concerning the failure to transpose the provisions of Directive 2001/18/EC of the European Parliament and of the Council of 12 March 2001 on the deliberate release into the environment of genetically modified organisms and repealing Council Directive 90/220/EEC on the deliberate release into the environment of genetically modified organisms (OJ 2001 L 106, p. 1), which diverge from or go beyond the provisions of that directive — Application for the imposition of a penalty payment and a lump sum payment

Operative part of the judgment

The Court:

1. Declares that, by failing to take, by the date on which the deadline imposed in the reasoned opinion expired, all the measures necessary to comply with the judgment of 15 July 2004 in Case C-419/03 *Commission v France concerning its failure to transpose into national law the provisions of Directive 2001/18/EC of the*

European Parliament and of the Council of 12 March 2001 on the deliberate release into the environment of genetically modified organisms and repealing Council Directive 90/220/EEC, which diverge from or go beyond the provisions of Council Directive 90/220/EEC of 23 April 1990 on the deliberate release into the environment of genetically modified organisms, the French Republic has failed to fulfil its obligations under Article 228(1) EC;

2. Orders the French Republic to pay to the Commission of the European Communities, into the 'European Community own resources' account, a lump sum of EUR 10 million;

3. Orders the French Republic to pay the costs;

4. Orders the Czech Republic to bear its own costs.

(¹) OJ C 95, 28.4.2007.

Judgment of the Court (Grand Chamber) of 16 December 2008 (reference for a preliminary ruling from the Conseil d'État — France) — Société Arcelor Atlantique et Lorraine, Sollac Méditerranée, Société Arcelor Packaging International, Société Ugine & Alz France, Société Industeel Loire, Société Creusot Métal, Société Imphy Alloys, Arcelor SA v Premier ministre, Ministre de l'Écologie et du Développement durable, Ministre de l'Économie, des Finances et de l'Industrie

(Case C-127/07) (¹)

(Environment — Integrated pollution prevention and control — Greenhouse gas emission allowance trading scheme — Directive 2003/87/EC — Scope — Installations in the steel sector included — Installations in the chemical and non-ferrous metal sectors excluded — Principle of equal treatment)

(2009/C 44/13)

Language of the case: French

Referring court

Conseil d'État

Parties to the main proceedings

Applicants: Société Arcelor Atlantique et Lorraine, Sollac Méditerranée, Société Arcelor Packaging International, Société Ugine & Alz France, Société Industeel Loire, Société Creusot Métal, Société Imphy Alloys, Arcelor SA

Defendants: Premier ministre, Ministre de l'Écologie et du Développement durable, Ministre de l'Économie, des Finances et de l'Industrie

Re:

Reference for a preliminary ruling — Conseil d'État — Validity, in the light of the Community principle of equal treatment, of Directive 2003/87/EC of the European Parliament and of the Council of 13 October 2003 establishing a scheme for greenhouse gas emission allowance trading within the Community and amending Council Directive 96/61/EC (OJ 2003 L 275, p. 32) — Difference in treatment as between, on the one hand, installations in the steel sector subject to the greenhouse gas emission allowance trading scheme laid down by the Directive and, on the other, the aluminium and plastic industries, which emit identical greenhouse gases and which are not subject to that system — Objective justification for that difference in treatment?

Operative part of the judgment

Consideration of Directive 2003/87/EC of the European Parliament and of the Council of 13 October 2003 establishing a scheme for greenhouse gas emission allowance trading within the Community and amending Council Directive 96/61/EC, as amended by Directive 2004/101/EC of the European Parliament and of the Council of 27 October 2004, from the point of view of the principle of equal treatment has disclosed nothing to affect its validity in so far as it makes the greenhouse gas emission allowance trading scheme applicable to the steel sector without including the chemical and non-ferrous metal sectors in its scope.

(¹) OJ C 117, 26.5.2007.

Judgment of the Court (First Chamber) of 22 December 2008 — Commission of the European Communities v Republic of Austria

(Case C-161/07) (¹)

(Failure of a Member State to fulfil obligations — Article 43 EC — National legislation laying down the conditions for registration of partnerships or companies on application by nationals of the new Member States — Procedure for certification of self-employed status)

(2009/C 44/14)

Language of the case: German

Parties

Applicant: Commission of the European Communities (represented by: E. Traversa and G. Braun, Agents)

Intervener in support of the applicant: Republic of Lithuania (represented by: D. Kriauciūnas, Agent)

Defendant: Republic of Austria (represented by: C. Pesendorfer and M. Winkler, Agents)

Re:

Failure of a Member State to fulfil obligations — Infringement of Article 43 EC — National legislation laying down the conditions for registration of businesses owned by third-country nationals, applicable also to Czech, Estonian, Latvian, Lithuanian, Hungarian, Polish, Slovene and Slovak nationals — Obligation for all members of partnerships and for minority shareholders in limited liability companies who perform activities which are typical of a work relationship to follow a special procedure for determining the applicant's self-employed status, in the course of which they must prove their influence on the management of the business they wish to have registered in the Member State

Operative part of the judgment

The Court:

1. Declares that, by requiring for the registration of partnerships or companies in the commercial register on application by persons who are nationals of the Member States which acceded to the European Union on 1 May 2004 — with the exception of the Republic of Cyprus and the Republic of Malta — and are members of a partnership or have minority holdings in a limited liability company, a determination by the *Arbeitsmarktservice* that they are self-employed or the presentation of a work permit exemption certificate, the Republic of Austria has failed to fulfil its obligations under Article 43 EC;
2. Orders the Republic of Austria to pay the costs.

(¹) OJ C 140, 23.6.2007.

Judgment of the Court (Second Chamber) of 22 December 2008 — Commission of the European Communities v Kingdom of Spain

(Case C-189/07) (¹)

(Failure to fulfil obligations — Regulation (EEC) No 2847/93 — Articles 2(1) and 31(1) and (2) — Regulations (EC) No 2406/96 and 850/98 — Control system in the fisheries sector — Common marketing standards for certain fishery products — Unsatisfactory monitoring, inspection and surveillance — Failure to adopt adequate measures to penalise infringements — Enforcement of penalties — General failure to fulfil the provisions of a regulation — Production before the Court of additional evidence intended to support the proposition that the failure is general and consistent — Whether permissible)

(2009/C 44/15)

Language of the case: Spanish

Parties

Applicant: Commission of the European Communities (represented by: P. Oliver and F. Jimeno Fernández, Agents)