

Form of order sought

— declare that, by failing to adopt all such laws, regulations and administrative provisions necessary to comply with Directive 2006/7/EC of the European Parliament and of the Council of 15 February 2006 concerning the management of bathing water quality and repealing Directive 76/160/EEC, ⁽¹⁾ or in any event, by failing to inform the Commission thereof, the Czech Republic has failed to fulfil its obligations under Article 18 of that directive;

— order Czech Republic to pay the costs.

Pleas in law and main arguments

The period for implementing the directive into domestic law expired on 24 March 2008.

⁽¹⁾ OJ 2006 L 64, p. 37.

Reference for a preliminary ruling from Court of Appeal (England & Wales) (Civil Division) (United Kingdom) made on 30 November 2009 — Budějovický Budvar, národní podnik v Anheuser-Busch, Inc.

(Case C-482/09)

(2010/C 24/72)

Language of the case: English

Referring court

Court of Appeal (England & Wales) (Civil Division)

Parties to the main proceedings

Applicant: Budějovický Budvar, národní podnik

Defendant: Anheuser-Busch, Inc.

Questions referred

1. What is meant by ‘acquiesced’ in Article 9(1) of Council Directive 89/104/EEC ⁽¹⁾ and in particular:

- (a) is ‘acquiesced’ a community law concept or is it open to the national court to apply national rules as to acquiescence (including delay or long established honest concurrent use)
- (b) if ‘acquiesced’ is a community law concept can the proprietor of a trade mark be held to have acquiesced in a long and well-established honest use of an identical mark by another when he has long known of that use but has been unable to prevent it?

(c) in any case, is it necessary that the proprietor of a trade mark should have his trade mark registered before he can begin to ‘acquiesce’ in the use by another of (i) an identical or (ii) a confusingly similar mark?

2. When does the period of ‘five successive years’ commence and in particular, can it commence (and if so can it expire) before the proprietor of the earlier trade mark obtains actual registration of his mark; and if so what conditions are necessary to set time running?

3. Does Art 4(1)(a) of Council Directive 89/104/EEC apply so as to enable the proprietor of an earlier mark to prevail even where there has been a long period of honest concurrent use of two identical trade marks for identical goods so that the guarantee of origin of the earlier mark does not mean the mark signifies the goods of the proprietor of the earlier and none other but instead signifies his goods or the goods of the other user?

⁽¹⁾ First Council Directive 89/104/EEC of 21 December 1988 to approximate the laws of the Member States relating to trade marks OJ L 40, p. 1

Action brought on 30 November 2009 — Commission v Italian Republic

(Case C-486/09)

(2010/C 24/73)

Language of the case: Italian

Parties

Applicant: Commission of the European Communities (represented by: M. Condou-Durande and N. Bambara, Agents)

Defendant: Italian Republic

Form of order sought

— Declare that, by failing to adopt all the laws, regulations and administrative provisions necessary to comply with Council Regulation (EC) No 1030/2002 of 13 June 2002, ⁽¹⁾ the Italian Republic has failed to fulfil its obligations under Articles 1 and 9 of the regulation;

— Order the Italian Republic to pay the costs.