JUDGMENT OF THE COURT (Grand Chamber)

11 December 2007 *

In Case C-161/06,

REFERENCE for a preliminary ruling under Article 234 EC from the Krajský soud v Ostravě (Czech Republic), made by decision of 10 March 2006, received at the Court on 24 March 2006, in the proceedings

Skoma-Lux sro

v

Celní ředitelství Olomouc,

THE COURT (Grand Chamber),

composed of V. Skouris, President, P. Jann, C.W.A. Timmermans, A. Rosas, K. Lenaerts, A. Tizzano, Presidents of Chambers, R. Schintgen, R. Silva de Lapuerta, K. Schiemann, P. Lindh, J.-C. Bonichot (Rapporteur), T. von Danwitz and A. Arabadjiev, Judges,

* Language of the case: Czech.

Advocate General: J. Kokott,
Registrar: J. Swedenborg, Administrator,

having regard to the written procedure and further to the hearing on 26 June 2007,

after considering the observations submitted on behalf of:

— Skoma-Lux sro, by P. Ritter, advokát,

— the Czech Government, by T. Boček, acting as Agent,

— the Estonian Government, by L. Uibo, acting as Agent,

— the Latvian Government, by K. Bārdiņa and R. Kaskina, acting as Agents,

— the Polish Government, by E. Ośniecka-Tamecka, M. Kapko and M. Kamejsza, acting as Agents,

— the Slovak Government, by J. Čorba, acting as Agent,

— the Swedish Government, by A. Kruse and A. Falk, acting as Agents,

— the Commission of the European Communities, by J. Hottiaux, M. Šimerdová and P. Aalto, acting as Agents,

after hearing the Opinion of the Advocate General at the sitting on 18 September 2007,

gives the following

Judgment

1 This reference for a preliminary ruling concerns the interpretation of Article 58 of the Act concerning the conditions of accession to the European Union of the Czech Republic, the Republic of Estonia, the Republic of Cyprus, the Republic of Latvia, the Republic of Lithuania, the Republic of Hungary, the Republic of Malta, the Republic of Poland, the Republic of Slovenia and the Slovak Republic and the adjustments to the Treaties on which the European Union is founded (OJ 2003 L 236, p. 33, 'the Act concerning the conditions of accession'), pursuant to which the Czech Republic became a Member State of the European Union as from 1 May 2004.

2 The reference was submitted in the course of proceedings between the company Skoma-Lux sro ('Skoma-Lux') and the Celní ředitelství Olomouc (Olomouc customs directorate, 'the customs directorate'), regarding a fine imposed on Skoma-Lux in

respect of customs infringements which it is alleged to have committed between March and May 2004, on the ground that the customs directorate could not enforce against it Community legislation which had not yet been published in the Czech language in the *Official Journal of the European Union.*

Legal context

Community legislation

The Act concerning the conditions of accession

3 The Act concerning the conditions of accession is an integral part of the Treaty between the Kingdom of Belgium, the Kingdom of Denmark, the Federal Republic of Germany, the Hellenic Republic, the Kingdom of Spain, the French Republic, Ireland, the Italian Republic, the Grand Duchy of Luxembourg, the Kingdom of the Netherlands, the Republic of Austria, the Portuguese Republic, the Republic of Finland, the Kingdom of Sweden, the United Kingdom of Great Britain and Northern Ireland (Member States of the European Union) and the Czech Republic, the Republic of Estonia, the Republic of Cyprus, the Republic of Latvia, the Republic of Lithuania, the Republic of Hungary, the Republic of Malta, the Republic of Poland, the Republic of Slovenia, the Slovak Republic, concerning the accession of the Czech Republic, the Republic of Estonia, the Republic of Cyprus, the Republic of Latvia, the Republic of Lithuania, the Republic of Hungary, the Republic of Malta, the Republic of Poland, the Republic of Slovenia and the Slovak Republic to the European Union (OJ 2003 L 236, p. 17) and sets the admission conditions and the adjustments to the treaties on which the European Union is founded which that accession involves.

4 Under Article 2 of the Act concerning the conditions of accession:

'From the date of accession, the provisions of the original Treaties and the acts adopted by the institutions and the European Central Bank before accession shall be binding on the new Member States and shall apply in those States under the conditions laid down in those Treaties and in this Act.'

5 Article 58 of that act provides:

'The texts of the acts of the institutions, and of the European Central Bank, adopted before accession and drawn up by the Council, the Commission or the European Central Bank in the Czech, Estonian, Hungarian, Latvian, Lithuanian, Maltese, Polish, Slovak and Slovenian languages shall, from the date of accession, be authentic under the same conditions as the texts drawn up in the present 11 languages. They shall be published in the *Official Journal of the European Union* if the texts in the present languages were so published'.

Regulation No 1

6 Pursuant to Article 1 of Council Regulation No 1 of 15 April 1958 determining the languages to be used by the European Economic Community (OJ, English Special Edition 1952-1958 (I), p. 59), as amended by the Act concerning the conditions of accession, the official languages of the Union are to be:

'Czech, Danish, Dutch, English, Estonian, Finnish, French, German, Greek, Hungarian, Italian, Latvian, Lithuanian, Maltese, Polish, Portuguese, Slovak, Slovenian, Spanish and Swedish'.

7 Article 4 of that regulation provides:

'Regulations and other documents of general application shall be drafted in the 20 official languages.'

8 Article 5 of that regulation states:

'The *Official Journal of the European Union* shall be published in the 20 official languages.'

9 Under Article 8 of that regulation:

'If a Member State has more than one official language, the language to be used shall, at the request of such State, be governed by the general rules of its law.'

10 Under Article 199 of Commission Regulation (EEC) No 2454/93 of 2 July 1993 laying down provisions for the implementation of Council Regulation (EEC) No 2913/92 establishing the Community Customs Code (OJ 1993 L 253, p. 1):

'Without prejudice to the possible application of penal provisions, the lodging with a customs office of a declaration signed by the declarant or his representative shall render him responsible under the provisions in force for:

— the accuracy of the information given in the declaration,

— the authenticity of the documents attached,

and

— compliance with all the obligations relating to the entry of the goods in question under the procedure concerned.'

National legislation

11 Article 293(1)(d) of Law No 13/1993 ('the Law on customs') provides:

'Customs provisions are infringed by a person who causes goods to be released to him on the basis of spurious, altered or forged documents or incorrect or false information.'

The dispute in the main proceedings and the questions referred for a preliminary ruling

12 Skoma-Lux is an importer of wine and wine-merchant. On 30 September 2004, the Olomouc Customs Office fined it for infringing the customs legislation, which it is

alleged to have done repeatedly, on 11, 22 and 23 March, 6 and 15 April, 18 and 20 May 2004. The Olomouc customs directorate having confirmed that fine by a decision of 10 January 2005, Skoma-Lux, on 16 March 2005, brought an action for annulment of that decision before the Krajský soud v Ostravě (Regional Court).

13 Skoma-Lux is accused of having committed a customs offence by submitting incorrect information concerning the customs classification of Kagor VK red wine. The customs directorate submits not only that the company infringed certain provisions of the Law on customs, in the version in force prior to the accession of the Czech Republic to the Union, but also that it committed a customs offence for the purposes of Article 293(1)(d) of that law by failing to comply with Article 199(1) of Regulation No 2454/93.

14 Skoma-Lux based, in part, its action for annulment on the inapplicability of the Community regulation to the offences it is alleged to have committed, including those which occurred after the accession of the Czech Republic to the Union, in the absence of publication in the Czech language of the provisions of Community law applied by the customs authorities on the dates when the acts in dispute were committed.

15 The customs directorate submits that the Czech Ministry of Finance published the Czech version of the relevant customs provisions in electronic form, that Skoma-Lux was able to acquaint itself with those provisions at customs offices and that that company, which has been operating for a long time in the field of international trade, knew the relevant Community provisions.

16 In those circumstances, the Krajský soud v Ostravě decided to stay the proceedings and to refer to the Court for a preliminary ruling the following questions:

'(1) May Article 58 of the Act concerning the conditions of accession, on the basis of which the Czech Republic became a Member State of the European Union as from 1 May 2004, be interpreted as meaning that a Member State may apply against an individual a regulation which at the time of its application has not been properly published in the *Official Journal of the European Union* in the official language of that Member State?

(2) If Question 1 is answered in the negative, is the unenforceability of the regulation concerned against an individual a question of the interpretation or of the validity of Community law within the meaning of Article 234 EC?

(3) Should the Court of Justice conclude that the present reference for a preliminary ruling concerns the validity of a Community act within the meaning of the judgment in Case 314/85 *Foto-Frost* [1987] ECR 4199, is Regulation No 2454/93 invalid in relation to the applicant and its dispute with the customs authorities of the Czech Republic on the ground of the absence of proper publication in the *Official Journal of the European Union* in accordance with Article 58 of the Act concerning the conditions of accession?'

The questions referred

The first question

17 By its first question, the referring court is asking the Court whether Article 58 of the Act concerning the conditions of accession allows the provisions of a Community

regulation which has not been published in the *Official Journal of the European Union* in the language of a Member State, although that language is an official language of the Union, to be enforced against individuals in that State.

18 The referring court notes that the Court has already considered, in Case 160/84 *Oryzomyli Kavallas and Others* [1986] ECR 1633, paragraphs 11 to 21, whether the absence of proper publication of a Community act in the *Official Journal of the European Union* is a ground for the unenforceability of the legislation in question against individuals. In that judgment the Court took into account the impossibility for the individuals affected of acquainting themselves with the legislation which was being enforced against them.

19 As regards the case in the main proceedings, the referring court considers that the majority of interested parties acquaint themselves with legal rules in electronic form and that, therefore, the absence of publication of Community legislation in the *Official Journal of the European Union* does not render it unavailable. The Union has, in fact, published provisional or provisionally revised language versions on the internet and the usual practice is to search for Community law in databases such as the interinstitutional service for on-line consultation of European Union law (EUR-Lex).

20 In this connection, it might seem reasonable to accept that the applicability of Community legislation not published in the relevant language should be determined on a case-by-case basis, after having examined the possibility for an individual of actually knowing of the content of the document concerned. In a case such as that at issue in the main proceedings, the applicant company could not but be informed since it operates internationally and the obligation to make an accurate declaration of imported goods is a customs rule known in all Member States.

21 However, the referring court acknowledges that the principles of legal certainty and equality of citizens are safeguarded, inter alia, by the formal requirement of proper publication of legislation in the official language of the person to whom it applies (see Case C-209/96 *United Kingdom* v *Commission* [1998] ECR I-5655, paragraph 35, and Case C-108/01 *Consorzio del Prosciutto di Parma and Salumificio S. Rita* [2003] ECR I-5121, paragraph 89). The parallel existence of a number of non-official divergent translations would increase legal uncertainty.

Observations submitted to the Court

22 Skoma-Lux submits that Regulation No 2454/93 was not enforceable against it since it had not been translated into Czech. Furthermore, it disputes the assertion that it should have known of the existence of that legislation given its international trading activities.

23 Skoma-Lux claims that it could not have known, before the translation of the Community legislation into the Czech language, of the precise law applicable since, as regards the classification of wine, which is the subject of the main proceedings, the Law on customs differed from the Community Customs Code. It submits, in this connection, that the new classification set out in Regulation No 2454/93 was introduced further to the request it made when in contact with the Commission and that, as a result, it cannot be accused of being wilfully ignorant of that legislation.

24 The Czech, Latvian and Swedish Governments submit that, under the provisions of Article 254 EC read in conjunction with Articles 2 and 58 of the Act concerning the conditions of accession, one of the conditions for Community law to be enforceable against individuals in the Member State concerned is that it is properly published in the *Official Journal of the European Union* in the language of that State.

25 They point out, in particular, that the principles of non-discrimination on the ground of nationality, equality and legal certainty must be observed.

26 Those governments also take the view that the electronic versions of translations which exist prior to the electronic publication of the *Official Journal of the European Union* do not provide the requisite legal certainty.

27 The Estonian Government takes the view that it follows from Article 254 EC that publication in the *Official Journal of the European Union* of secondary Community legislation in the official languages of the new Member States is, on the accession of those States to the Union, an obligation for the Union, and that the absence of such publication constitutes a breach of that obligation.

28 However, since the principle of legal certainty requires only that the nationals of a Member State should be able to know precisely what is the extent of their obligations under legislation, the possibility of finding out about legal measures by means of the internet should be taken into account. That applies to those who use the internet and who are aware of the amendments made to the legal order as a result of the accession of their State to the Union. That category of 'informed nationals' includes those who, like Skoma-Lux, deal with Community law on a daily basis in the course of their business.

29 The Polish Government takes the view, following a similar analysis, that an individual in a Member State may avoid the adverse consequences of the application of the provisions of a legal measure which has not been officially published in the national language only if it is established that he did not learn of the content of that measure by a different means.

30 According to the Commission, the provisions of a regulation which, when it is applied by the customs authorities of a Member State, has not been published in the *Official Journal of the European Union* in the official language of the State concerned, cannot be enforced against individuals.

31 It submits, however, that account should be taken of the possibility of learning of the legislation in another language version or by electronic means. It points out that in the main proceedings the customs regulation at issue was published in the Czech language on the EUR-Lex internet site on 23 November 2003, then in printed form on 30 April 2004 and posted in the premises of the Office for Official Publications of the European Communities (OPOCE). It was finally published, in the same version, in a special edition of the *Official Journal of the European Union* on 27 August 2004.

The Court's reply

32 It follows from Article 2 of the Act concerning the conditions of accession that the measures taken before accession by the institutions bind the new Member States and are applicable in those States as from accession. However, their enforceability against natural and legal persons in those States is subject to the general conditions for the implementation of Community law in the Member States as laid down in the original treaties and, in the case of the new Member States, by the Act concerning the conditions of accession itself.

33 It is evident from the very wording of the provisions of Article 254(2) EC that a Community regulation cannot take effect in law unless it has been published in the *Official Journal of the European Union*.

34 Furthermore, it follows from the provisions of Article 58 of the Act concerning the conditions of accession in conjunction with those of Articles 4, 5 and 8 of Regulation No 1 that the proper publication of a Community regulation, with regard to a Member State whose language is an official language of the Union, must include the publication of that act, in that language, in the *Official Journal of the European Union.*

35 It is, consequently, under those conditions that the provisions of the original treaties and the acts adopted prior to accession by the institutions and the European Central Bank must be implemented in the new Member States pursuant to Article 2 of the Act concerning the conditions of accession.

36 In addition to the legitimacy which it derives from the very wording of the treaties, such an interpretation is the only one consistent with the principles of legal certainty and non-discrimination.

37 It is apparent from paragraph 15 of the judgment in Case C-98/78 *Racke* [1979] ECR 69, that an act adopted by a Community institution, such as the regulation at issue in the main proceedings, cannot be enforced against natural and legal persons in a Member State before they have the opportunity to make themselves acquainted with it by its proper publication in the *Official Journal of the European Union.*

38 The Court has held that the principle of legal certainty requires that Community legislation must allow those concerned to acquaint themselves with the precise extent of the obligations it imposes upon them, which may be guaranteed only by the proper publication of that legislation in the official language of those to whom it applies (see also, to that effect, Case C-370/96 *Covita* [1998] ECR I-7711, paragraph 27, Case C-228/99 *Silos* [2001] ECR I-8401, paragraph 15, and *Consorzio del Prosciutto di Parma and Salumificio S. Rita,* paragraph 95).

39 In addition, it would be contrary to the principle of equal treatment to apply obligations imposed by Community legislation in the same way in the old Member States, where individuals have the opportunity to acquaint themselves with those obligations in the *Official Journal of the European Union* in the languages of those States, and in the new Member States, where it was impossible to learn of those obligations because of late publication.

40 Observing fundamental principles of that kind is not contrary to the principle of effectiveness of Community law since the latter principle cannot apply to rules which are not yet enforceable against individuals.

41 Although it appears in fact consistent with the principle of cooperation in good faith set out in Article 10 EC that the new Member States should take all the measures necessary to ensure that Community law is effective in their domestic legal systems, it would be *contra legem*, having regard to the foregoing analysis, to require them to impose on individuals obligations contained in legislation of general application which is not published in the *Official Journal of the European Union* in the official language of those States.

42 The approach which allows an act which has not been properly published to be enforceable in that way in the name of the principle of effectiveness would result in individuals in the Member State concerned bearing the adverse effects of a failure by the Community administration to comply with its obligation to make available to those individuals, on the date of accession, the entire *acquis communautaire* in all the official languages of the Union (see to that effect *Racke*, paragraph 16).

43 Admittedly, in some of the observations submitted to the Court it is pointed out that, in paragraphs 11 to 21 of *Oryzomyli Kavallas and Others*, the Court considered

whether inadequate publication of Community law in the *Official Journal of the European Union* should constitute in all cases a ground for the unenforceability of the legislation at issue against individuals.

44 However, that judgment must be read in its context and in the light of the question which was referred to the Court. The Court did no more than assess the impossibility for a Greek company of acquainting itself with Community legislation at the time of the accession of the Hellenic Republic to the European Communities. The issue of the proper publication of that legislation did not arise as such. The Court merely examined whether, at the time of the accession of the Hellenic Republic, a Greek company which had acted unlawfully under the Community rules in submitting applications to its national authorities for rebates of import duty might still receive those rebates, having regard to the difficulty for that company and for the Greek authorities of acquainting themselves with the Community legislation and applying the new rules correctly.

45 The referring court, some of the Member States which have submitted observations and the Commission argue that the applicant company in the main proceedings was by definition informed of the applicable Community rules because its business is international trade and it must know the content of the customs requirements, namely in particular, the requirement to make an accurate declaration of imported goods. In such a case, the Community legislation, although not published, should apply, since it could be proven that the party concerned in fact knew about it.

46 However, such a fact is not sufficient to make Community legislation which has not been properly published in the *Official Journal of the European Union* enforceable against an individual.

47 Similarly, the referring court, some of the Member States which have submitted observations and the Commission also maintain that individuals nowadays often acquaint themselves with the rules of Community law in their electronic version, so that the consequences of lack of publication in the *Official Journal of the European Union* should be placed in context and it is no longer appropriate to hold that such a failure makes those rules unavailable. The Commission adds that the regulation at issue in the main proceedings was made public, in the Czech language, on the EUR-Lex internet site from 23 November 2003, then in printed form on 30 April 2004 and posted in the premises of OPOCE.

48 However, although Community legislation is indeed available on the internet and individuals are using this means more and more frequently to acquaint themselves with it, making the legislation available by such means does not equate to a valid publication in the *Official Journal of the European Union* in the absence of any rules in that regard in Community law.

49 Moreover, it must be emphasised that although various Member States have adopted electronic publication as a valid form, it is the subject of legislation or regulations which organise it in detail and set out exactly when that publication is valid. Accordingly, as Community law now stands, the Court cannot consider that form of making Community legislation available to be sufficient for it to be enforceable.

50 The only version of a Community regulation which is authentic, as Community law now stands, is that which is published in the *Official Journal of the European Union*, such that an electronic version predating that publication, even if it is subsequently seen to be consistent with the published version, cannot be enforced against individuals.

51 The answer to the first question must therefore be that Article 58 of the Act concerning the conditions of accession precludes the obligations contained in Community legislation which has not been published in the *Official Journal of the European Union* in the language of a new Member State, where that language is an official language of the Union, from being imposed on individuals in that State, even though those persons could have learned of that legislation by other means.

The second question

52 By its second question, the referring court is essentially asking whether the unenforceability of a Community regulation not published in the language of a Member State against individuals in that State is a question of the interpretation or of the validity of that regulation.

Observations submitted to the Court

53 The Czech Government relies on the Court's case-law submitting that the lack of publication of a Community regulation in the *Official Journal of the European Union* has no influence on its validity and that, consequently, an examination of the effects of that lack of publication concerns only the interpretation of Community law. The Court held that the validity of such a regulation is not affected by the fact that its publication did not take place until after the expiry of the time-limit since this belatedness has no significance save as to the date from which the regulation could be applied or take effect (Case 185/73 *König* [1974] ECR 607, paragraph 6).

54 The Latvian Government takes the view that the inapplicability against individuals of a Community regulation which has not been published in the *Official Journal of the European Union* is a question of validity since the effects of that inapplicability are, in practical terms, the same as if that regulation did not exist. Therefore, in order to resolve a dispute brought before it, a national court should hold that that regulation has never existed.

55 For the Commission, which relies on the Court's case-law, the availability of the *Official Journal of the European Union* in the various Member States has no effect either on the date on which a regulation is considered to be published or on the date on which it enters into force (see, to that effect, *Racke*, and Case 99/78 *Decker* [1979] ECR 101). Consequently, the unavailability of a language version of the *Official Journal of the European Union* could not, in itself, affect the validity or the date of the entry into force of that regulation.

56 The Commission consequently submits that whether a regulation is enforceable or not against an individual when it has not been published in the *Official Journal of the European Union* is a question of the interpretation of Community law.

The Court's reply

57 The question before the referring court is whether a regulation which has not been published in the language of a Member State is invalid in the light of the first sentence of Article 254(2) EC, Articles 2 and 58 of the Act concerning the conditions of accession and Articles 4 and 5 of Regulation No 1.

58 It is common ground that those provisions do not affect the validity of a regulation applicable in the Member States in which it has been properly published.

59 In addition, the fact that that regulation is not enforceable against individuals in a Member State in the language of which it has not been published has no bearing on the fact that, as part of the *acquis communautaire*, its provisions are binding on the Member State concerned as from its accession.

60 The purpose and effect of interpreting the provisions cited in paragraph 57 above in conjunction with one another, as is apparent from the answer provided to the first question, is to delay the enforceability of the obligations which a Community regulation imposes on individuals in a Member State until those individuals can acquaint themselves with it in an official manner which is completely unambiguous.

61 Consequently, the answer to the second question must be that, in holding that a Community regulation which is not published in the language of a Member State is unenforceable against individuals in that State, the Court is interpreting Community law for the purposes of Article 234 EC.

The third question

62 Having regard to the answer provided to the second question, there is no need to rule on the validity of such a Community regulation.

The application for a limitation on the temporal effects of this judgment

63 The Czech Government has suggested that the Court should limit the temporal effects of its judgment to the date of publication in the *Official Journal of the European Union* of the questions referred to it, but that that limitation could not be relied on against applicants who have already challenged the application of the unpublished provisions or who have applied for compensation for the harm thus caused.

64 It submits that the two basic criteria which determine whether a ruling on the limitation on the temporal effects of a judgment can be given are fulfilled in the present case, namely that the persons concerned have acted in good faith and that there is a risk of serious problems, which are not only of a financial nature.

65 The Latvian Government makes the same suggestion, but that the limitation should be to the date of this judgment, so that decisions adopted in good faith on the basis of Community legislation not yet published in the *Official Journal of the European Union*, and which have not been challenged by those to whom they apply, can no longer be called into question.

66 It is of the opinion that all the Member States which joined the Union on 1 May 2004 acted in good faith when they implemented Community rules which, at that time, had not been published in the *Official Journal of the European Union*. Should it be necessary, in the light of the meaning of this judgment, to annul the resulting administrative decisions for lack of legal basis, that would lead to a large number of applications for annulment and major financial consequences not only for the budgets of the Member States, but also for that of the Union.

67 In this connection, in the context of an order for reference concerning the interpretation of a provision of Community law, the Court may, exceptionally, in application of the general principle of legal certainty inherent in the Community legal order, decide to restrict for any person concerned the right to rely upon a provision, which it has interpreted, with a view to calling in question legal relations established in good faith (see, in particular, Case 43/75 *'Defrenne II'* [1976] ECR 455, paragraphs 72 to 75, and Case C-292/04 *Meilicke and Others* [2007] ECR I-1835, paragraph 35.

68 However, that case-law concerns a different situation from that before the Court. In fact, in the present case it is not a question of limiting the temporal effects of a judgment of the Court concerning the interpretation of a provision of Community law, but of limiting the temporal effects of a judgment which concerns the actual enforceability, in a Member State, of a Community act. Consequently, that case-law cannot be applied to the present case.

69 It should also be recalled that, under Article 231 EC, the Court can, when it annuls a regulation, if it considers this necessary, state which of the effects of the regulation which it has declared void are to be considered as definitive.

70 It follows that, even though an act is unlawful and deemed never to have been adopted, the Court can, under an express provision of the EC Treaty, decide that some of its legal consequences shall nevertheless lawfully take effect.

71 The same requirements of legal certainty dictate that the same should apply to national decisions taken pursuant to provisions of Community law which have not become enforceable in some Member States because they were not properly published in the *Official Journal of the European Union* in the official language of the

States concerned, with the exception of any of those decisions which had been the subject of administrative or judicial proceedings at the date of this judgment.

72 Therefore, the Member States concerned are not, under Community law, obliged to call in question the administrative or judicial decisions taken on the basis of such rules where those decisions have become definitive under the applicable national rules.

73 Under Community law, it would be otherwise only in exceptional circumstances where, on the basis of the rules described in paragraph 71 above, there have been administrative measures or judicial decisions, in particular of a coercive nature, which would compromise fundamental rights: it is for the competent national authorities to ascertain this within those limits.

Costs

74 Since these proceedings are, for the parties to the main proceedings, a step in the action pending before the national court, the decision on costs is a matter for that court. Costs incurred in submitting observations to the Court, other than the costs of those parties, are not recoverable.

On those grounds, the Court (Grand Chamber) hereby rules:

1. **Article 58 of the Act concerning the conditions of accession to the European Union of the Czech Republic, the Republic of Estonia, the Republic of Cyprus, the Republic of Latvia, the Republic of Lithuania, the Republic of Hungary, the Republic of Malta, the Republic of Poland, the Republic of Slovenia and the Slovak Republic and the adjustments to the Treaties on which the European Union is founded, precludes the obligations contained in Community legislation which has not been published in the *Official Journal of the European Union* in the language of a new Member State, where that language is an official language of the European Union, from being imposed on individuals in that State, even though those persons could have learned of that legislation by other means.**

2. **In holding that a Community regulation which is not published in the language of a Member State is unenforceable against individuals in that State, the Court is interpreting Community law for the purposes of Article 234 EC.**

[Signatures]