JUDGMENT OF THE COURT
12 October 1993 *

In Case C-37/92,

REFERENCE to the Court under Article 177 of the EEC Treaty by the Cour d'Appel, Douai, for a preliminary ruling in the criminal proceedings pending before that court against

José Vanacker and

André Lesage,

Civil party: **Baudoux Combustibles SA,**

on the interpretation of Articles 30 to 36 of the EEC Treaty and Council Directive 75/439/EEC of 16 June 1975 on the disposal of waste oils (OJ 1975 L 194, p. 23),

THE COURT,

composed of: O. Due, President, G. F. Mancini, J. C. Moitinho de Almeida and M. Diez de Velasco (Presidents of Chambers), C. N. Kakouris, F. A. Schockweiler, F. Grévisse, M. Zuleeg and P. J. G. Kapteyn, Judges,

Advocate General: C. O. Lenz,
Registrar: H. A. Rühl, Principal Administrator

* Language of the case: French.

after considering the written observations submitted on behalf of:

— the French Government, by Hélène Duchene, Secretary for Foreign Affairs, and Philippe Pouzoulet, Deputy Director of the Directorate for Legal Affairs of the Ministry for Foreign Affairs, acting as Agents,

— the Commission of the European Communities, by Maria Condou, of its Legal Service, and Virginia Melgar, a national official seconded to the Legal Service, acting as Agents,

having regard to the Report for the Hearing,

after hearing the oral observations of Francis Dujardin, of the Tournai Bar, on behalf of José Vanacker and André Lesage, the French Government, represented by Hélène Duchene, assisted by Jean-Michel Clech, Chargé de Mission in the Waste Department of the Ministry for the Environment, and the Commission of the European Communities at the hearing on 27 January 1993,

after hearing the Opinion of the Advocate General at the sitting on 2 March 1993,

gives the following

Judgment

1 By judgment of 18 October 1991, received at the Court on 13 February 1992, the Cour d'Appel (Court of Appeal), Douai, referred to the Court for a preliminary ruling under Article 177 of the EEC Treaty a question on the interpretation of Articles 30 to 36 of the EEC Treaty and Council Directive 75/439/EEC of 16 June 1975 on the disposal of waste oils (OJ 1975 L 194, p. 23, 'the directive').

2 The question arose in the course of criminal proceedings brought against two Belgian nationals, José Vanacker and André Lesage, before the Tribunal Correctionnel (Criminal Court), Laon, who were charged with disposing of waste oil within the meaning of the French legislation in force at the material time, that is to say with collecting and transporting waste oil on French territory in 1985 without possessing the approval required by the legislation in question. Those offences were laid down by that legislation, which also prescribed the penalties.

3 The Tribunal Correctionnel acquitted the defendants. After this judgment was upheld by judgment of the Cour d'Appel, Amiens, an appeal on a point of law was lodged. The Cour de Cassation (Court of Cassation) quashed the judgment of the Cour d'Appel, Amiens, and remitted the case to the Cour d'Appel, Douai. The latter found 'sufficient grounds in the facts submitted for its assessment' for staying the proceedings and referring the following question to the Court for a preliminary ruling:

'May the French legislation establishing within France a system of collection and disposal of waste oil operated by undertakings to which the administrative authorities grant approval for exclusive zones be interpreted, in the light of Articles 30 to 36 of the EEC Treaty and the directive of the Council of the Communities, as in fact allowing approval to be issued only to national undertakings, and must it accordingly be regarded as consistent or inconsistent with the abovementioned European provisions?'

4 Reference is made to the Report for the Hearing for a fuller account of the relevant legislation, the facts, the course of the procedure and the written observations submitted to the Court, which are discussed or referred to hereinafter only in so far as is necessary for the reasoning of the Court.

5 It appears from the case-file that the national court's doubts relate to the rules on the collection, that is, the removal and transportation, of waste oil, and not to the rules concerning the disposal of waste oil. Furthermore, the question referred to the Court consists in fact of the two following parts.

6 First, the national court asks the Court to interpret the French legislation in order to determine whether it does not in fact limit the grant of the approval required for collection to national undertakings only.

7 The reply to this part of the question must be that, under the system of judicial cooperation established by Article 177 of the Treaty, the interpretation of national rules is a matter for the national courts and not for the Court of Justice, even though it has been consistently held that where national rules have been adopted in order to implement a Community directive, those courts are required to interpret their national law in the light of the wording and the purpose of the directive (see Case 80/86 Criminal proceedings against *Kolpinghuis Nijmegen* [1987] ECR 3969).

8 Secondly, the national court asks whether Articles 30 to 36 of the Treaty and Directive 75/439 preclude national legislation establishing a system of collection and disposal of waste oil for the benefit of undertakings to which the administrative authorities grant approval for exclusive zones which in fact allows such approval to be granted only to national undertakings.

9 In order to reply to the second part of the question, it must be observed, first, that, since the question of the collection of waste oil has been regulated in a harmonized manner at Community level by the directive, any national measure relating thereto must be assessed in the light of the provisions of the directive and not of Articles 30 to 36 of the Treaty.

10 Secondly, it must be observed that Articles 2, 3 and 4 of the directive require the Member States to take the necessary measures to ensure the safe collection and disposal of waste oils, preferably by recycling. Article 5 of the directive, in the version in force at the material time, provides that, where those aims cannot otherwise

be achieved, the Member States are to take the necessary measures to ensure that one or more undertakings carry out the collection and/or disposal of the products offered to them by holders, where appropriate in the zone assigned to them by the competent authorities.

11 Furthermore, in the judgments in Case 172/82 *Inter-Huiles* [1983] ECR 555, Case 295/82 *Rhône-Alpes Huiles* [1984] ECR 575, and Case 173/83 *Commission* v *France* [1985] ECR 491, the Court held that the national legislation which established a system of approval by zones was incompatible with the directive in question and with the rules concerning the free movement of goods because it precluded the exportation of waste oil.

12 National legislation which provides for approval by zones and in fact allows such approval to be granted only to national undertakings is also incompatible with the directive.

13 Therefore the reply to be given to the second part of the question from the national court is that Directive 75/439 precludes national legislation establishing a system of collection and disposal of waste oils for the benefit of undertakings to which the administrative authorities grant approval for exclusive zones which in fact allows such approval to be granted only to national undertakings.

Costs

14 The costs incurred by the French Government and the Commission of the European Communities, which have submitted observations to the Court, are not

recoverable. Since these proceedings are, for the parties to the main proceedings, a step in the proceedings pending before the national court, the decision on costs is a matter for that court.

On those grounds,

THE COURT,

in answer to the questions referred to it by the Cour d'Appel, Douai, by judgment of 18 October 1991, hereby rules:

1. **Under the system of judicial cooperation established by Article 177 of the EEC Treaty, the interpretation of national rules is a matter for the national courts and not for the Court of Justice, even though it has been consistently held that where national rules have been adopted in order to implement a Community directive those courts are required to interpret their national law in the light of the wording and the purpose of the directive.**

2. **Council Directive 75/439/EEC of 16 June 1975 on the disposal of waste oils precludes national legislation establishing a system of collection and disposal of waste oils for the benefit of undertakings to which the administrative authorities grant approval for exclusive zones which in fact allows such approval to be granted only to national undertakings.**

Due Mancini Moitinho de Almeida Diez de Velasco

Kakouris Schockweiler Grévisse Zuleeg Kapteyn

Delivered in open court in Luxembourg on 12 October 1993.

J.-G. Giraud O. Due

Registrar President