JUDGMENT OF THE COURT (Third Chamber)

5 June 2003 *

In Case C-352/02,

Commission of the European Communities, represented by M. Konstantinidis, acting as Agent, with an address for service in Luxembourg,

applicant,

v

Hellenic Republic, represented by N. Dafniou, acting as Agent, with an address for service in Luxembourg,

defendant,

APPLICATION for a declaration that, by failing to adopt or by failing to notify to the Commission the laws, regulations and administrative provisions necessary to comply with Directive 2000/14/EC of the European Parliament and of the Council of 8 May 2000 on the approximation of the laws of the Member States relating to the noise emission in the environment by equipment for use outdoors

* Language of the case: Greek.

(OJ 2000 L 162, p. 1), the Hellenic Republic has failed to fulfil its obligations under that directive,

THE COURT (Third Chamber),

composed of: J.-P. Puissochet (Rapporteur), President of the Chamber, F. Macken and J.N. Cunha Rodrigues, Judges,

Advocate General: F.G. Jacobs,

Registrar: R. Grass,

having regard to the report of the Judge-Rapporteur,

having decided, after hearing the Advocate General, to proceed to judgment without an Opinion,

gives the following

Judgment

1 By application lodged with the Court Registry on 2 October 2002, the Commission of the European Communities brought an action under Article 226

EC for a declaration that, by failing to adopt or by failing to notify to it the laws, regulations and administrative provisions necessary to comply with Directive 2000/14/EC of the European Parliament and of the Council of 8 May 2000 on the approximation of the laws of the Member States relating to the noise emission in the environment by equipment for use outdoors (OJ 2000 L 162, p. 1), the Hellenic Republic has failed to fulfil its obligations under that directive.

Legal background

2 Article 22(1) of Directive 2000/14 provides:

'Member States shall adopt and publish the laws, regulations and administrative provisions necessary to comply with this Directive no later than 3 July 2001. They shall forthwith inform the Commission thereof.'

Pre-litigation procedure

3 Having received no notification from the Hellenic Republic of the adoption of provisions transposing Directive 2000/14 and having no other information enabling it to conclude that such provisions had been adopted, the Commission

took the view that the Hellenic Republic had not yet adopted those provisions and had, consequently, failed to fulfil its obligations under that directive.

4 By letter of 19 October 2001, the Commission gave the Hellenic Republic formal notice to submit its observations within two months of notification of that letter.

5 In the absence of a reply from the Greek authorities, the Commission, by letter of 21 March 2002, sent a reasoned opinion to the Hellenic Republic, calling upon it to take the measures necessary to comply with Directive 2000/14 within two months of notification of that opinion.

6 Since the Hellenic Republic did not respond, the Commission concluded that those measures had not been adopted and brought the present action.

The failure to fulfil obligations

7 It is established that the Greek authorities failed to transpose Directive 2000/14 within the period laid down in the reasoned opinion. Those authorities state that a ministerial decree bringing the Greek legislation into line with the directive is to be adopted very soon.

8 However, the question whether a Member State has failed to fulfil its obligations must be determined by reference to the legislative situation prevailing in the Member State at the end of the period laid down in the reasoned opinion (see, for example, Case C-147/00 *Commission* v *France* [2001] ECR I-2387, paragraph 26).

9 Since no measure transposing Directive 2000/14 was adopted by the Greek authorities within the prescribed period, the action brought by the Commission must be regarded as well founded.

10 Accordingly, it must be held that, by failing to adopt, within the prescribed period, the laws, regulations and administrative provisions necessary to comply with Directive 2000/14, the Hellenic Republic has failed to fulfil its obligations under Article 22(1) of that directive.

Costs

11 Under Article 69(2) of the Rules of Procedure, the unsuccessful party is to be ordered to pay the costs if they have been applied for in the successful party's pleadings. Since the Commission has applied for costs and the Hellenic Republic has been unsuccessful, the latter must be ordered to pay the costs.

On those grounds,

THE COURT (Third Chamber)

hereby:

1. **Declares that, by failing to adopt, within the prescribed period, the laws, regulations and administrative provisions necessary to comply with Directive 2000/14/EC of the European Parliament and of the Council of 8 May 2000 on the approximation of the laws of the Member States relating to the noise emission in the environment by equipment for use outdoors, the Hellenic Republic has failed to fulfil its obligations under Article 22(1) of that directive;**

2. **Orders the Hellenic Republic to pay the costs.**

Puissochet Macken Cunha Rodrigues

Delivered in open court in Luxembourg on 5 June 2003.

R. Grass
Registrar

J.-P. Puissochet
President of the Third Chamber