

TRIBUNAL DE JUSTICIA DE LAS COMUNIDADES EUROPEAS
SOUDNÍ DVŮR EVROPSKÝCH SPOLEČENSTVÍ
DE EUROPÆISKE FÆLLESSKABERS DOMSTOL
GERICHTSHOF DER EUROPÄISCHEN GEMEINSCHAFTEN
EUROOPA ÜHENDUSTE KOHUS
ΔΙΚΑΣΤΗΡΙΟ ΤΩΝ ΕΥΡΩΠΑΪΚΩΝ ΚΟΙΝΟΤΗΤΩΝ
COURT OF JUSTICE OF THE EUROPEAN COMMUNITIES
COUR DE JUSTICE DES COMMUNAUTÉS EUROPÉENNES
CÚIRT BHREITHIÚNAIS NA gCÓMHPHOBAL EORPACH
CORTE DI GIUSTIZIA DELLE COMUNITÀ EUROPEE
EIROPAS KOPIENU TIESA



EUROPOS BENDRIJŲ TEISINGUMO TEISMAS
EURÓPAI KÖZÖSSÉGEK BÍRÓSÁGA
IL-QORTI TAL-GUSTIZZJA TAL-KOMUNITAJIET EWROPEJ
HOF VAN JUSTITIE VAN DE EUROPESE GEMEENSCHAPPEN
TRYBUNAŁ SPRAWIEDLIWOŚCI WSPÓLNOT EUROPEJSKICH
TRIBUNAL DE JUSTIÇA DAS COMUNIDADES EUROPEIAS
SÚDNY DVOR EURÓPSKYCH SPOLOČENSTEV
SODIŠČE EVROPSKIH SKUPNOSTI
EUROOPAN YHTEISÖJEN TUOMIOISTUIN
EUROPEISKA GEMENSKAPERNAS DOMSTOL

Press and Information

PRESS RELEASE No 44/05

24 May 2005

Judgment of the Court of Justice in Case C-244/03

French Republic v. European Parliament and Council of the European Union

**THE COURT DISMISSES THE ACTION BROUGHT AGAINST THE
PROGRESSIVE BAN ON ANIMAL TESTING FOR THE PURPOSE OF
DEVELOPING AND MARKETING COSMETICS**

*Partial annulment of the contested directive would alter the substance of the provisions
relating to testing on animals for the purpose of developing cosmetic products*

Directive 2003/15/EC¹ provides, inter alia, that Member States are to ban progressively the marketing of cosmetic products in cases where those products or their ingredients have been the subject of animal testing and the performance, within their territory, of testing on animals in respect of such products or ingredients. The directive also sets aside the ban on marketing of those products provided for hitherto by Directive 76/768.²

France requested the Court of Justice of the European Communities to annul the new bans thus introduced by Directive 2003/15, arguing in particular that they infringed the principle of legal certainty. France did not, however, seek annulment of the provision which set aside the previous ban.

The Court of Justice first points out that partial annulment of a Community measure is possible only if the elements the annulment of which is sought may be severed from the remainder of the measure; that requirement is not satisfied in the case where the partial annulment sought would have the effect of altering the substance of the measure in question.

In the present case, the Court takes the view that annulment of the contested provision alone, while at the same time leaving intact the provision setting aside the earlier ban, would substantively alter the provisions relating to testing on animals for the purpose of developing cosmetic products.

¹ Directive 2003/15/EC of the European Parliament and of the Council of 27 February 2003 amending Council Directive 76/768/EEC on the approximation of the laws of the Member States relating to cosmetic products (OJ 2003 L 66, p. 26).

² OJ 1976 L 262, p. 169.

The provision at issue is in fact intended to supersede the earlier ban and has in part the same subject-matter (the conditions governing the prohibition of marketing cosmetic products containing ingredients or combinations of ingredients that have been tested on animals). Repeal of the former provision is the consequence of the adoption of the new provision.

Directive 2003/15, moreover, emphasises the connection between the two provisions: it states that it is **essential** that **the aim of abolishing animal experiments for testing cosmetic products** be pursued and that the prohibition of such experiments become effective within the territory of the Member States.

The Court declares in those circumstances that the inclusion of the new bans and the deletion of the previous ban constituted a non-severable whole.

The Court accordingly concludes that the **partial annulment sought was impossible** and declared the action to be inadmissible.

Unofficial document for media use, not binding on the Court of Justice.

Languages available: FR, DE, EN, ES, IT, NL, PL

The full text of the judgment may be found on the Court's internet site

<http://curia.eu.int/jurisp/cgi-bin/form.pl?lang=en>

It can usually be consulted after midday (CET) on the day judgment is delivered.

For further information, please contact Christopher Fretwell

Tel: (00352) 4303 3355 Fax: (00352) 4303 2731