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COURT OF JUSTICE OF THE EUROPEAN COMMUNITIES
COUR DE JUSTICE DES COMMUNAUTÉS EUROPÉENNES
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Judgment of the Court of Justice in Case C-439/02

Commission of the European Communities v French Republic

**THE COURT DECLARES THAT FRANCE HAS FAILED TO FULFIL ITS
OBLIGATIONS UNDER COMMUNITY LAW IN RESPECT OF MARITIME
SAFETY**

It did not carry out sufficient inspections of vessels which entered its ports.

The purpose of the 1995 Council Directive¹ is to help drastically to reduce substandard shipping in the waters under the jurisdiction of Member States. That reduction is to be achieved by increasing compliance with international and relevant Community legislation on maritime safety, protection of the marine environment and living and working conditions on board ships of all flags. The Directive establishes common criteria for control of ships by the port State and harmonises procedures on inspection and detention, taking proper account of the commitments made by the maritime authorities of the Member States under the Paris Memorandum of Understanding on Port State Control.

The Commission brought an action against France seeking a declaration that, by inspecting only 14.1% and 12.2% of the foreign vessels which entered its ports during 1999 and 2000 respectively, the French Republic had clearly failed to fulfil its obligation under that directive, according to which each Member State is to carry out an annual total number of inspections corresponding to at least 25% of the number of individual ships which entered its ports during a representative calendar year. Failure to fulfil that obligation leads inevitably to an increased risk of maritime accidents and therefore to loss of life and to sea and coastal pollution.

¹ Council Directive 95/21/EC of 19 June 1995.

The French authorities stated that they suffered constraints in their use of human resources and the organisation of their services, since the number of inspectors able to carry out the inspections required by the directive fell from 70 to 54 between 1994 and 1999. The budgetary and recruitment efforts made since that time have made it possible to increase the inspection percentages by a substantial proportion.

In the Commission's view, the lack of staff claimed by France was not sufficient justification for its failure to fulfil the obligations under that provision.

Finding that, in 2001, only 9.63% of the vessels which entered French ports were inspected, the Commission pointed out that not only did the French Republic fail to achieve the level of 25% set by Article 5(1) of Directive 95/21, but also that that percentage appears to be diminishing.

The Court of Justice found that the French Republic failed to fulfil its obligation under the directive and reiterated that it has consistently held that a Member State cannot plead provisions, practices or situations in its internal legal order to justify the absence of implementation of a directive within the period prescribed.

It therefore considered that the action brought by the Commission was well founded.

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Languages available: English, French, Portuguese and Spanish.

For the full text of the Opinion please consult our Internet page at

www.curia.eu.int

In principle it will be available from midday GMT on the day of delivery.

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