

СЪД НА ЕВРОПЕЙСКИТЕ ОБЩНОСТИ  
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  
AZ 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  
CURTEA DE JUSTIȚIE A COMUNITĂȚILOR EUROPENE  
SÚDNY DVOR EURÓPSKÝCH SPOLOČENSTIEV  
SODIŠČE EVROPSKIH SKUPNOSTI  
EUROOPAN YHTEISÖJEN TUOMIOISTUIN  
EUROPEISKA GEMENSKAPERNAS DOMSTOL

## Press and Information

### **PRESS RELEASE No 87/08**

9 December 2008

Judgment of the Court of Justice in Case C-121/07

*Commission v French Republic*

### **THE COURT ORDERS FRANCE TO PAY A LUMP SUM FOR FAILING TO COMPLY SWIFTLY WITH THE 2004 JUDGMENT OF THE COURT ESTABLISHING ITS FAILURE TO FULFIL OBLIGATIONS CONCERNING GENETICALLY MODIFIED ORGANISMS (GMOS)**

*Due to the circumstances of this case, the lump sum to be paid is set at EUR 10 million*

In 2004,<sup>1</sup> on the Commission's application, the Court of Justice held that France had infringed Community law by failing to transpose into national law, by 17 October 2002, the directive on the deliberate release into the environment of genetically modified organisms (GMOs).<sup>2</sup>

After the Commission had instigated proceedings before the Court for failure to comply with that judgment, the French authorities adopted, on 15 and 19 March 2007, substantive national transposition measures and, subsequently, the Law of 25 June 2008 on GMOs.

After examining those documents, the Commission informed the Court, by letter of 30 July 2008, of its view that those national measures fully completed the transposition of the directive and that, accordingly, the judgment of the Court had been complied with in its entirety. The Commission also stated in that letter that its request that France be ordered to pay a penalty payment had, therefore, become devoid of purpose. On the other hand, the Commission persisted with its request that France be ordered to pay a lump sum.<sup>3</sup>

The Court finds that the reference date for assessing whether there has been a failure to comply with the judgment is February 2006, the date of expiry of the period prescribed in the reasoned opinion issued by the Commission, and that it is obvious that, by that date, with the exception of

<sup>1</sup> Judgment of 15 July 2004 in Case C-419/03 *Commission v France*.

<sup>2</sup> Directive 2001/118/EC of the European Parliament and of the Council of 12 March 2001 on the deliberate release into the environment of genetically modified organisms and repealing Council Directive 90/220/EEC, which diverge from or go beyond the provisions of Council Directive 90/220/EEC of 23 April 1990 on the deliberate release into the environment of genetically modified organisms.

<sup>3</sup> Referring to the method of calculation set out in its 2005 Communication, the Commission proposed that France be ordered to pay the sum of EUR 43 600 per day in respect of the period from 15 July 2004 to 20 March 2007 and a sum, to be determined by the Court, per day in respect of the period from 21 March 2007 to the date when the Law of 25 June 2008 entered into force.

a decree, France had not taken any steps to comply with the initial 2004 judgment establishing its failure to fulfil obligations.

The Court observes first of all that, according to established case-law, the procedure laid down in the Treaty<sup>4</sup> is aimed at inducing a defaulting Member State to comply with an earlier judgment establishing a failure to fulfil obligations so as to ensure that Community law is in fact applied. The financial penalties provided for by the Treaty, namely a lump sum and a penalty payment, are both intended to achieve that objective. It is for the Court, in the light of the circumstances in each case, to determine the penalties appropriate for making sure that the initial judgment which established the breach is complied with as swiftly as possible and to prevent similar infringements of Community law from recurring.

Finding that France fully transposed the directive in June 2008, **the Court considers the imposition of a penalty payment to be unnecessary.**

The Court next states that an order for the payment of a **lump sum** is not to be made automatically but depends on the specific details of the breach established and the approach adopted by the Member State concerned. The relevant factors to be taken into account include, in particular, the public and private interests involved and how long the breach of obligations has persisted since the judgment which initially established it was delivered.

The Court points out, first, that the unlawful conduct repeatedly engaged in by France in the GMOs sector is of such a nature as to require the adoption of a dissuasive measure, such as a lump sum payment.

Secondly, the Court draws attention to the considerable length of time for which the breach persisted after the initial judgment was delivered on 15 July 2004, which nothing in the circumstances of this case can justify, since France cannot rely on internal difficulties to avoid its obligations under Community law. In particular, even if the violent demonstrations relating to the cultivation of GMO crops in open fields referred to by the French Government are in fact attributable in part to the implementation of Community rules, a Member State may not rely on difficulties of implementation which emerge at the stage when a Community measure is put into effect, including difficulties relating to opposition on the part of certain individuals, to justify a failure to comply with obligations and time-limits laid down by Community law.

Thirdly, the Court finds that the breach is serious, especially in the light of its impact on the public and private interests involved, since the objective of the directive is to approximate the laws, regulations and administrative provisions of the Member States on the placing on the market and deliberate release into the environment of GMOs, to protect human health and the environment and to facilitate the free movement of goods.

**Those considerations therefore justify the imposition of a lump sum payment.**

However, the Court takes account of certain circumstances for the purpose of determining the **amount of the lump sum payment.** In that regard, the Court considers, in particular, that, in spite of the delay, the March 2007 implementing measures ensured that virtually all the directive was transposed – only three of its provisions remaining, according to the Commission, improperly transposed until 27 June 2008 – and that it has not been established that the French authorities failed in their duty to cooperate in good faith.

---

<sup>4</sup> Article 228(2) EC.

**Consequently, the circumstances of this case are fairly assessed by setting the amount of the lump sum which France will have to pay at EUR 10 million.**

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

*Languages available: DE, EL, EN, FR, IT*

*The full text of the judgment may be found on the Court's internet site  
<http://curia.europa.eu/jurisp/cgi-bin/form.pl?lang=EN&Submit=rechercher&numaff=C-121/07>  
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*