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EUROOPA ÜHENDUSTE KOHUS  
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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



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İRÓPAI KÖZÖSSÉGEK BÍRÓSÁGA  
IL-QORTI TAL-GUSTIZZJA TAL-KOMUNITAJIET EWROPEJ  
HOF VAN JUSTITIE VAN DE EUROPESE GEMEENSCHAPPEN  
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TRIBUNAL DE JUSTIÇA DAS COMUNIDADES EUROPELAS  
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EUROPEISKA GEMENSKAPERNAS DOMSTOL

Press and Information

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Judgment of the Court of Justice in Case C-459/03

*Commission of the European Communities v. Ireland*

**BY BRINGING PROCEEDINGS AGAINST THE UNITED KINGDOM WITHIN  
THE FRAMEWORK OF THE CONVENTION ON THE LAW OF THE SEA,  
IRELAND HAS BREACHED COMMUNITY LAW**

*The Court of Justice of the European Communities has exclusive jurisdiction to rule on disputes concerning the interpretation and application of the provisions of the Convention which form part of the Community legal order*

The United Nations Convention on the Law of the Sea was approved on behalf of the European Community by Council decision of 1998<sup>1</sup>. According to the declaration of Community competence made at the time of the formal confirmation of that convention, the Community enjoys exclusive competence with regard to the Convention provisions on the prevention of marine pollution only to the extent to which those provisions affect existing Community rules. The Convention also provides for a dispute-settlement procedure. Furthermore, under the EC Treaty Member States undertake not to submit a dispute concerning the interpretation or application of Community law to any court or tribunal other than the Court of Justice of the European Communities.

The MOX plant is situated at Sellafield (United Kingdom) on the coast of the Irish Sea. It recycles material from nuclear reactors and converts it into a new fuel known as MOX (mixed oxide fuel) intended for use as an energy source in nuclear power stations. Ireland raised the issue of the MOX plant with the United Kingdom authorities, questioning in particular the soundness of the reports and decisions which formed the basis for justification of the plant's construction.

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<sup>1</sup> Decision 98/392/EC (OJ 1998 L 179, p. 1).

Ireland instituted proceedings against the United Kingdom before the arbitral tribunal provided for under the Convention with a view to resolving the dispute concerning the MOX plant, the international transfer of radioactive substances and the protection of the marine environment of the Irish Sea. The applicant criticised the United Kingdom for failure to comply with the Convention by not taking the appropriate measures to protect the marine environment with regard to the operation of the MOX plant.<sup>2</sup>

The Commission was informed of the proceedings brought by Ireland and requested that they be suspended on the ground that the dispute in question came within the exclusive jurisdiction of the Court. Ireland did not accede to that request and the Commission accordingly brought the present action. The Commission claims that Ireland has failed to respect the Court's exclusive jurisdiction to rule on any dispute concerning the interpretation and application of Community law.

The Court first of all finds that the provisions of the Convention which the United Kingdom is accused of having breached relate to the 'protection and preservation of the marine environment', an area in which the Community's external competence is not exclusive but is, in principle, shared between it and the Member States. Moreover, the declaration of Community competence, so far as concerns, in particular, the provisions of the Convention relating to the prevention of marine pollution, makes the transfer to the Community of areas of shared competence subject to the existence of Community rules, even though it is not necessary that those rules should be affected.

It appears that the matters covered by the Convention provisions which Ireland invoked before the arbitral tribunal are to a very large extent regulated by Community measures. There are, for instance, directives relating to the obligation to carry out a proper assessment of the environmental impact of plant-related activities on the marine environment, to international transfers of radioactive substances connected to the activity of the MOX plant, and to the freedom of access to information on the environment. Finally, the Convention for the Protection of the Marine Environment of the North-East Atlantic, which Ireland invoked before the arbitral tribunal, was concluded by the Community.

**As the provisions of the Convention relied on by Ireland in the context of the dispute form part of the Community legal order, the Court accordingly has jurisdiction to deal with disputes relating to their interpretation or application and to determine whether a Member State has complied with them.**

The Court goes on to find that Ireland submitted instruments of Community law governed by the EC and EA Treaties to the arbitral tribunal for purposes of their interpretation and application within the framework of proceedings seeking a declaration that the United Kingdom had breached the provisions of those instruments. That is at variance with the obligation imposed on Member States<sup>3</sup> to respect the exclusive nature of the Court's jurisdiction to resolve disputes concerning the interpretation and application of provisions of Community law. A breach of this nature involves a manifest risk that the jurisdictional order

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<sup>2</sup> In particular, failure to comply with Articles 123, 192, 193, 194, 206, 207, 211 and 213 of the Convention on the Law of the Sea.

<sup>3</sup> Under Articles 292 EC and 193 EA.

laid down in the Treaties and, consequently, the autonomy of the Community legal system may be adversely affected.

The Court holds in conclusion that, by bringing proceedings under the dispute-settlement procedure laid down in the Convention on the Law of the Sea, without having first informed and consulted the competent Community institutions, Ireland has failed to comply with its duty of cooperation under the EC and EA Treaties.<sup>4</sup>

The Court accordingly finds that **Ireland is in breach of Community law.**

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

*Languages available: FR, DE, EN, PL, SL*

*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&Submit=rechercher&numaff=C-459/03>*

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

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<sup>4</sup> Articles 10 EC and 192 EA.