

Third, the order under appeal infringes Article 265 TFEU, since the General Court, first, found that the letter of 29 July 2009 could not be challenged and, second, wrongly found that the conditions for bringing an action for failure to act had not been satisfied. Consequently, the appellant was denied all of its rights of legal protection.

Finally, the order fails to provide adequate grounds in various instances and thereby infringes the duty to state reasons laid down in Article 81 of the Rules of Procedure of the General Court.

Action brought on 26 March 2012 — European Commission v Federal Republic of Germany

(Case C-148/12)

(2012/C 138/16)

Language of the case: German

Parties

Applicant: European Commission (represented by: P. Hetsch and G. Braun, acting as Agents)

Defendant: Federal Republic of Germany

Form of order sought

The applicant claims that the Court should:

- declare that, by failing fully to adopt the laws, regulations and administrative provisions necessary to transpose Directive 2008/110/EC of the European Parliament and of the Council of 16 December 2008 amending Directive 2004/49/EC on safety on the Community's railways, ⁽¹⁾ or fully to communicate such measures to the Commission, the Federal Republic of Germany has failed to fulfil its obligations under that directive;
- impose upon the Federal Republic of Germany, in accordance with Article 260(3) TFEU, a penalty payment for failure to fulfil its obligation to notify measures transposing Directive 2008/110/EC at the daily rate of EUR 148 094,1, payable to the European Union's own resources account;
- order the Federal Republic of Germany to pay the costs.

Pleas in law and main arguments

The time-limit for the transposition of the directive expired on 24 December 2010.

⁽¹⁾ OJ 2008 L 345, p. 62.