

Action brought on 26 March 2003 by the Commission of the European Communities against the Hellenic Republic

(Case C-137/03)

(2003/C 112/36)

An action against the Hellenic Republic was brought before the Court of Justice of the European Communities on 26 March 2003 by the Commission of the European Communities, represented by M. Kondou-Durande, of its Legal Service.

The Commission claims that the Court should:

- declare that, by failing to adopt the laws, regulations and administrative provisions necessary to comply with Directive 2000/77/EC⁽¹⁾ of the European Parliament and of the Council of 14 December 2000 amending Council Directive 95/53/EC fixing the principles governing the organisation of official inspections in the field of animal nutrition, the Hellenic Republic has failed to fulfil its obligations under the Treaty and that Directive;
- order the Hellenic Republic to pay the costs.

Pleas in law and main arguments

Under the third paragraph of Article 249 of the Treaty establishing the European Community, a directive is to be binding, as to the result to be achieved, upon each Member State to which it is addressed.

Under the first paragraph of Article 10 EC, Member States are to take all appropriate measures, whether general or particular, to ensure fulfilment of the obligations arising out of that Treaty or resulting from action taken by the institutions of the Community.

The Hellenic Republic does not dispute the fact that it must take measures to comply with the above Directive.

The Commission notes that the Hellenic Republic has not yet taken the appropriate measures to incorporate the directive in question fully into the Greek legal order.

⁽¹⁾ OJ L 333 of 29.12.2000, p. 81.

Action brought on 31 March 2003 by the Commission of the European Communities against the Republic of Austria

(Case C-147/03)

(2003/C 112/37)

An action against the Republic of Austria was brought before the Court of Justice of the European Communities on 31 March 2003 by the Commission of the European Communities, represented by Denis Martin, of its Legal Service, with an address for service in Luxembourg.

The applicant claims that the Court should:

1. declare that, by failing to adopt the necessary measures to ensure that holders of secondary school leaving examination certificates obtained in other Member States have access to higher or university education in Austria on the same conditions as holders of leaving examination certificates obtained in Austria, the Republic of Austria has failed to fulfil its obligations under Articles 12, 149 and 150 EC;
2. order the Republic of Austria to pay the costs.

Pleas in law and main arguments

The effect of the rules governing admission to the Austrian system of higher or university education is that holders of secondary school leaving examination certificates obtained in other Member States must demonstrate, not only that they satisfy the general conditions for admission to higher or university education, but also that they fulfil the specific conditions for direct access to their chosen subject which have been laid down by the Member State of issue of those leaving examination certificates. Such rules are contrary to Articles 12, 149 and 150 EC. Firstly, as is not disputed, the admission of holders of leaving examination certificates obtained in other Member States to certain fields of study at Austrian higher-education colleges or universities is made subject to a condition which does not apply to holders of leaving examination certificates obtained in Austria. Secondly, by referring to the legal requirements governing admission to higher and university education which are applicable in the State of origin, those rules lead to discrimination against nationals of other Member States.