

JUDGMENT OF THE COURT

(Sixth Chamber)

of 8 May 2003

in Case C-14/02 (Reference for a preliminary ruling from the Conseil d'État): *ATRAL SA v Belgian State*,⁽¹⁾

(Free movement of goods — Alarm systems and networks — Interpretation of Articles 28 EC and 30 EC — Interpretation of Directives 73/23/EEC, 89/336/EEC and 1999/5/EEC — Compatibility of national legislation making marketing subject to a prior approval procedure)

(2003/C 146/20)

(Language of the case: French)

(Provisional translation; the definitive translation will be published in the European Court Reports)

In Case C-14/02: Reference to the Court under Article 234 EC by the Conseil d'État (Belgium) for a preliminary ruling in the proceedings pending before that court between ATRAL SA and Belgian State, on the interpretation of Articles 28 and 30 EC, of Council Directive 73/23/EEC of 19 February 1973 on the harmonisation of the laws of Member States relating to electrical equipment designed for use within certain voltage limits (OJ 1973 L 77, p. 29), as amended by Council Directive 93/68/EEC of 22 July 1993 amending Directives 87/404/EEC (simple pressure vessels), 88/378/EEC (safety of toys), 89/106/EEC (construction products), 89/336/EEC (electromagnetic compatibility), 89/392/EEC (machinery), 89/686/EEC (personal protective equipment), 90/384/EEC (non-automatic weighing instruments), 90/385/EEC (active implantable medicinal devices), 90/396/EEC (appliances burning gaseous fuels), 91/263/EEC (telecommunications terminal equipment), 92/42/EEC (new hot-water boilers fired with liquid or gaseous fuels) and 73/23/EEC (electrical equipment designed for use within certain voltage limits) (OJ 1993 L 220, p. 1), of Council Directive 89/336/EEC of 3 May 1989 on the approximation of the laws of the Member States relating to electromagnetic compatibility (OJ 1989 L 139, p. 19), as amended by Directive 93/68, and of Directive 1999/5/EC of the European Parliament and of the Council of 9 March 1999 on radio equipment and telecommunications terminal equipment and the mutual recognition of their conformity (OJ 1999 L 91, p. 10), the Court (Sixth Chamber), composed of: J.-P. Puissochet, President of the Chamber, R. Schintgen, V. Skouris, F. Macken and J.N. Cunha Rodrigues (Rapporteur), Judges; L.A. Geelhoed, Advocate General; H.A. Rühl, Principal Administrator, for the Registrar, has given a judgment on 8 May 2003, in which it has ruled:

1. Council Directive 73/23/EEC of 19 February 1973 on the harmonisation of the laws of Member States relating to electrical equipment designed for use within certain voltage limits, as amended by Council Directive 93/68/EEC of 22 July 1993 amending Directives 87/404/EEC (simple pressure vessels), 88/378/EEC (safety of toys), 89/106/EEC (construction products), 89/336/EEC (electromagnetic compatibility), 89/392/EEC (machinery), 89/686/EEC (personal protective equipment), 90/384/EEC (non-automatic weighing instruments), 90/385/EEC (active implantable medicinal devices), 90/396/EEC (appliances burning gaseous fuels), 91/263/EEC (telecommunications terminal equipment), 92/42/EEC (new hot-water boilers fired with liquid or gaseous fuels) and 73/23/EEC (electrical equipment designed for use within certain voltage limits), Council Directive 89/336/EEC of 3 May 1989 on the approximation of the laws of the Member States relating to electromagnetic compatibility, as amended by Directive 93/68, and Directive 1999/5/EC of the European Parliament and of the Council of 9 March 1999 on radio equipment and telecommunications terminal equipment and the mutual recognition of their conformity are applicable to alarm systems and networks, in particular to those which use radio transmission. In the fields covered by those directives, national provisions governing the same field must necessarily conform to the abovementioned directives.
2. Article 3 of Directive 73/23, as amended, Article 5 of Directive 89/336, as amended, and Articles 6 and 8 of Directive 1999/5 preclude national provisions, such as those at issue in the main proceedings, which make subject to a prior approval procedure the placing on the market of alarm systems and networks which satisfy the requirements of those directives and which bear the appropriate 'CE' marking.
3. Articles 28 EC and 30 EC must be interpreted as meaning that even in the absence of harmonising Community measures, products lawfully produced and marketed in a Member State must be able to be marketed in another Member State without being subject to additional controls. In order to be justified, national legislation imposing such controls must be covered by one of the exceptions provided for in Article 30 EC or one of the overriding requirements recognised by the case-law of the Court and, in either case, must be appropriate for securing the attainment of that objective and not go beyond what is necessary in order to attain it.
4. It is for the Member State which claims to have a reason justifying a restriction on the free movement of goods to demonstrate specifically the existence of a reason relating to the public interest, the necessity for the restriction in question and that the restriction is proportionate in relation to the objective pursued.

⁽¹⁾ OJ C 68 of 16.3.2002.