

period for compliance laid down in the Directive. That period expired on 1 January 2000 without the United Kingdom having enacted the provisions necessary to comply with the Directive referred to in the conclusions of the Commission.

(<sup>1</sup>) OJ L 001, 5.1.1999, p. 1-2.

**Action brought on 4 October 2001 by the Commission of the European Communities against the United Kingdom**

(Case C-382/01)

(2001/C 331/24)

An action against the United Kingdom was brought before the Court of Justice of the European Communities on 4 October 2001 by the Commission of the European Communities, represented by Christina Tufvesson, acting as agent, with an address for service in Luxembourg.

The Applicant requests that the Court should:

- declare that by failing to adopt the laws, regulations or administrative provisions necessary to comply with the European Parliament and Council Directive 98/78/EC of 27 October 1998 on the supplementary supervision of insurance undertakings in an insurance group (<sup>1</sup>), or, in any event, by failing to inform the Commission of those measures, the United Kingdom has failed fulfil its obligations under that Directive,
- order the United Kingdom to pay the costs.

*Pleas in law and main arguments*

Article 249 EC under which a directive shall be binding as to the result to be achieved, upon each Member State, carries by implication an obligation on the Member States to observe the period for compliance laid down in the directive. That period expired on 5 June 2000 without the United Kingdom having enacted the provisions necessary to comply with the directive referred to in the conclusions of the Commission.

(<sup>1</sup>) OJ L 330, 5.12.1998, p. 1-12.

**Reference for a preliminary ruling by the Østre Landsret by order of 26 September 2001 in the case of De Danske Bilimportører v Skatteministeriet, Told- og Skattestyrelsen**

(Case C-383/01)

(2001/C 331/25)

Reference has been made to the Court of Justice of the European Communities by order of 26 September 2001 by the Østre Landsret (Eastern Regional Court), which was received at the Court Registry on 5 October 2001, for a preliminary ruling in the case of De Danske Bilimportører v Skatteministeriet, Told- og Skattestyrelsen (Duty and Taxation Authority of the Ministry of Fiscal Affairs), on the following questions:

1. Can an indirect duty (registration duty) charged by a Member State, which in the case of new cars amounts to 105 % of DKK 52 800 and 180 % of the remainder of the taxable value, be a measure having an effect equivalent to a quantitative restriction on imports and for that reason prohibited under Article 28 EC (reference is made in this connection to the Court's judgment in Case C-47/88 Commission v Denmark [1990] ECR I-4509, paragraph 13)?
2. If the answer to Question 1 is 'yes': can that registration duty be justified on the grounds that are mentioned in Article 30 EC or follow from the Court's case-law on Article 28 EC (reference is made to Case 120/78 Rewe-Zentral [1979] ECR 649)?

**Action brought on 9 October 2001 by the Commission of the European Communities against the Kingdom of Spain**

(Case C-392/01)

(2001/C 331/26)

An action against the Kingdom of Spain was brought before the Court of Justice of the European Communities on 9 October 2001 by the Commission of the European Communities, represented by Isabel Martínez del Peral, of its Legal Service, acting as Agent, with an address for service in Luxembourg at the office of Luis Escobar Guerrero, also of the Commission's Legal Service, Wagner Centre, Kirchberg.

The applicant claims that the Court should:

- Declare that, by failing to bring into force the laws, regulations and administrative provisions needed in order to comply with Directive 97/55/EC<sup>(1)</sup> of the European Parliament and of the Council of 6 October 1997 amending Directive 84/450/EEC<sup>(2)</sup> concerning misleading advertising so as to include comparative advertising, or, in any event, by failing to have informed the Commission of any such laws, regulations or administrative provisions, the Kingdom of Spain has failed to fulfil its obligations under Article 3(1) of the Directive,
- Order the Kingdom of Spain to pay the costs.

*Pleas in law and main arguments*

Under Article 3(1) of the Directive, the Kingdom of Spain was obliged to take the necessary measures to comply with the requirements of the Directive by 23 April 2000 at the latest and to inform the Commission thereof forthwith. However, the Kingdom of Spain has not complied with those obligations, since it has failed to take the measures necessary to incorporate the Directive into the Spanish legal system.

<sup>(1)</sup> OJ L 290, 23.10.1997, p. 18.

<sup>(2)</sup> OJ L 250, 19.9.1984, p. 17.

**Appeal brought on 12 October 2001 by the Commission of the European Communities against the order made on 1 August 2001 by the President of the Court of First Instance of the European Communities in Case T-132/01 R between Euroalliages, Péchiney Electrometallurgie, Vargon Alloys AB and Ferroatlantica, and the Commission of the European Communities**

**(Case C-404/01 P(R))**

(2001/C 331/27)

An appeal against the order made on 1 August 2001 by the President of the Court of First Instance of the European Communities in Case T-132/01 R between Euroalliages, Péchiney Electrometallurgie, Vargon Alloys AB and Ferroatlantica, and the Commission of the European Communities was brought before the Court of Justice of the European Communities on 11 October 2001 (by fax received on 11.10.01) by the Commission of the European Communities represented by V. Kreuzsitz and S. Meany, acting as Agents, and P. Bentley, Barrister, with an address for service in Luxembourg.

The appellant claims that the Court should:

- set aside the order of the President of the Court of First Instance of 1 August 2001 in Case T-132/01 R Euroalliages and Others v Commission;
- dismiss the application for interim measures in Case T-132/01 R; and
- order the applicants to pay the costs occasioned by this appeal, as well as by the application for interim relief and the application to amend the order of 1 August 2001.

*Pleas in law and main arguments*

- The order misconstrued Article 3(1) of Council Regulation (EC) No 384/96<sup>(1)</sup> in finding that 'the term "material" can only be understood as a synonym for "serious"'. There is nothing in that Regulation to support the conclusion that a 'material' injury within the meaning of Article 3 of the Regulation is the same as the 'serious' damage which must be established for the purposes of an application for interim measures.
- The order failed to have regard to the case-law on exceptional circumstances in finding that the circumstances of this case justified departing from settled case-law.
- The order failed to have regard to the case-law in characterising the damage possibly suffered by the applicants as 'irreparable'.

(Alternatively)

- In balancing the interests at stake, the contested order:

adopts inconsistent reasoning in finding that the registration of imports without requiring importers to deposit guarantees would not create an irreversible situation, whereas registration with the deposit of guarantees would do so; and

misinterprets Article 7 of Regulation (EC) No 384/96 (which implements the Community's obligations under Article 7 of the GATT agreement on anti-dumping) in concluding that the registration of imports would not have the same effect as anti-dumping measures.