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Press and Information

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Judgment of the Court of Justice in Case C-176/03

Commission of the European Communities v Council of the European Union

THE EUROPEAN COMMUNITY HAS THE POWER TO REQUIRE THE MEMBER STATES TO LAY DOWN CRIMINAL PENALTIES FOR THE PURPOSE OF PROTECTING THE ENVIRONMENT

The Court of Justice annuls the Council's Framework Decision on the protection of the environment through criminal law because the decision was adopted outside the Community legislative framework

The Council's Framework Decision on the protection of the environment through criminal law¹ determines that certain conduct which is particularly detrimental to the environment is to be criminal. The Council intended to use the Framework Decision to respond in a concerted way to the disturbing increase in offences posing a threat to the environment. The decision leaves to the Member States the choice of the criminal penalties to apply, although the latter must be effective, proportionate and dissuasive. The decision was adopted by the Council of the European Union, composed of the representatives of the Governments of the Member States, as an aspect of police and judicial cooperation between governments in criminal matters, which, by virtue of the Treaty on European Union, has become part of the institutional framework.

In the judgment delivered today, the Court of Justice upholds the Commission's² application.

The Commission claimed that the aim and content of the Framework Decision are within the scope of the European Community's powers on the environment, as provided for in the EC Treaty. Accordingly, the Framework Decision could not be adopted on the basis of the provisions of the Treaty on European Union concerning police and judicial cooperation in criminal matters. In environmental matters, the Commission initiates the legislative procedure, which includes the involvement of, among others, the European Parliament. The Commission had indeed put forward, in 2001, a proposal for a directive on the protection of

¹ Council Framework Decision 2003/80/JHA of 27 January 2003 on the protection of the environment through criminal law (OJ 2003 L 29, p. 55).

² Supported in these proceedings by the European Parliament.

the environment through criminal law³ but the Council did not adopt it. The Council⁴ submitted that, as the law currently stands, the Community does not have power to require the Member States to impose criminal penalties in respect of the conduct covered by the Framework Decision. Not only is there no express conferral of power, but, given the considerable significance of criminal law for the sovereignty of the Member States, there are no grounds for accepting that that power can have been implicitly transferred to the Community at the time when specific substantive powers, such as those pertaining to the environment, were conferred on it.

The Court observes that the protection of the environment constitutes one of the essential objectives of the Community and that environmental protection requirements must be integrated into the definition and implementation of the Community's policies and activities.

On account of both its aim and content, the Framework Decision has as its main purpose the protection of the environment and the majority of its provisions could have been properly adopted on the basis of the EC Treaty. **Although, as a general rule, neither criminal law nor the rules of criminal procedure fall within the Community's competence, that does not prevent the Community legislature, when the application of effective, proportionate and dissuasive criminal penalties by the competent national authorities is an essential measure for combating serious environmental offences, from taking measures that relate to the criminal law of the Member States which it considers necessary in order to ensure that the rules which it lays down on environmental protection are fully effective.**

Since the Framework Decision encroaches on the powers which the EC Treaty confers on the Community and thereby infringes the Treaty on European Union, which gives priority to such powers, the Court annuls that decision in its entirety.

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

Languages available: CS, DE, EN, FR, PL, SK

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>

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

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³ Proposal for a Directive of the European Parliament and of the Council on the protection of the environment through criminal law (OJ 2001 C 180 E, p. 238).

⁴ Supported in these proceedings by 11 Member States: Denmark, Germany, Greece, Spain, France, Ireland, the Netherlands, Portugal, Finland, Sweden and the United Kingdom.