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Press and Information

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Judgment of the Court of Justice in Case C-320/03

Commission of the European Communities v Republic of Austria

THE TRAFFIC BAN ON SOME LORRIES ON THE INN VALLEY MOTORWAY IS INCOMPATIBLE WITH THE FREE MOVEMENT OF GOODS

Although an obstacle to intra-community trade may in principle be justified by the protection of the environment, the prohibition in question is disproportionate.

A 2003 regulation of the Land of the Tyrol¹ banned lorries of over 7.5 tonnes carrying certain goods such as waste, stone, soil, motor vehicles, timber or cereals from using a 46 km section of the A 12 motorway in the Inn valley. The regulation was designed to improve air quality so as to ensure lasting protection of human, animal and plant health.

The Court of Justice of the European Communities, giving judgment today on an action brought by the Commission, has held that this sectoral traffic ban in the Tyrol obstructs the free movement of goods, particularly their free transit; the measure concerns a road section of the utmost importance, constituting one of the main land routes between the south of Germany and the north of Italy.

However, an obstacle to the free movement of goods, which is in principle contrary to Community law, may be justified by imperative requirements relating to the protection of the environment, the importance of which is stressed by the Court.

In that respect, the Court noted that the annual limit value for nitrogen dioxide (NO₂) laid down by two Community directives² had been exceeded in the zone concerned in 2002 and 2003, placing Austria under an obligation to act in order to attain the result prescribed by those directives. However, the Tyrol sectoral traffic ban and its legal basis, the Austrian law

¹ Regulation by the Landeshauptmann (First Minister) of the Tyrol limiting transport on the A 12 motorway in the Inn valley (sectoral prohibition on road transport) of 27 May 2003, which was due to come into force on 1 August 2003, but implementation of which was suspended following an order by the President of the Court of Justice on the application of the Commission.

² Council Directive 96/62/EC of 27 September 1996 on ambient air quality assessment and management (OJ 1996 L 296, p. 55) and Council Directive 1999/30/EC of 22 April 1999 relating to limit values for sulphur dioxide, nitrogen dioxide and oxides of nitrogen, particulate matter and lead in ambient air (OJ 1999 L 163, p. 41), as amended by Commission Decision 2001/744/EC of 17 October 2001 (OJ 2001 L 278, p. 35).

on air pollution transposing those directives, do not fulfil all the conditions necessary for the disputed ban to constitute a measure covered by those directives.

Concerning protection of the environment in general, the Court has held that **the sectoral traffic ban infringes the principle of proportionality**. Before adopting so radical a measure as a total prohibition on using a section of motorway constituting a vital communication link between certain Member States, **the Austrian authorities should have carefully examined the possibility of using less restrictive measures**. In this case, **they did not sufficiently study whether there actually was a realistic alternative solution ensuring transportation of the goods concerned by other means of transport or other road routes and, in particular, whether there was sufficient and appropriate rail capacity**. Moreover, **a transitional period of only two months for implementing the ban was clearly insufficient** to allow the undertakings concerned reasonably to adjust to the new circumstances.

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Languages available: DE, EN, ES, FR, IT, HU, NL, PL

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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