Judgment of the Court of Justice, Commission v Council, Case C-176/03 (13 September 2005)

Caption: It emerges from the judgment of the Court of Justice of 13 September 2005, in Case C-176/03, Commission v Council, that, because of both their aim and their substance, Articles 1 to 7 of Council Framework Decision 2003/80/JHA on the protection of the environment through criminal law have as their main purpose the protection of the environment and could have been properly adopted on the basis of Article 175 of the EC Treaty. In those circumstances, the entire Framework Decision, based on Title VI of the EU Treaty, encroaches on the powers which Article 175 of the EC Treaty confers on the Community and, being indivisible, infringes Article 47 of the EU Treaty under which none of the provisions in the EC Treaty may be affected by a provision of the EU Treaty.

Source: CVRIA. Case-law: Numerical access to the case-law. [ON-LINE]. [Luxembourg]: Court of Justice of the European Communities, [12.05.2006]. C-176/03. Available on http://curia.eu.int/en/content/juris/index.htm.

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URL:
http://www.cvce.eu/obj/judgment_of_the_court_of_justice_commission_v_council_case_c_176_03_13_september_2005-en-948bf037-bbc8-4972-821b-a8629161b49a.html

Publication date: 06/09/2012

Judgment of the Court (Grand Chamber) of 13 September 2005 (*)
Commission of the European Communities v Council of the European Union

Case C-176/03

(Action for annulment – Articles 29 EU, 31(e) EU, 34 EU and 47 EU – Framework Decision 2003/80/JHA – Protection of the environment – Criminal penalties – Community competence – Legal basis – Article 175 EC)

In Case C-176/03,

APPLICATION for annulment pursuant to Article 35 EU brought on 15 April 2003,

Commission of the European Communities, represented by M. Petite, J.-F. Pasquier and W. Bogensberger, acting as Agents, with an address for service in Luxembourg,

applicant,

supported by:

European Parliament, represented by G. Garzón Clariana, H. Duintjer Tebbens and A. Baas, and M. Gómez-Leal, acting as Agents, with an address for service in Luxembourg,

intervener,

v

Council of the European Union, represented by J.-C. Piris, J. Schutte and K. Michoel, acting as Agents, with an address for service in Luxembourg,

defendant,

supported by:

Kingdom of Denmark, represented by J. Molde, acting as Agent,

Federal Republic of Germany, represented by W.-D. Plessing and A. Dittrich, acting as Agents,

Hellenic Republic, represented by E.-M. Mamouna and M. Tassopoulou, acting as Agents, with an address for service in Luxembourg,

Kingdom of Spain, represented by N. Díaz Abad, acting as Agent, with an address for service in Luxembourg,

French Republic, represented by G. de Bergues, F. Alabrune and E. Puisais, acting as Agents,

Ireland, represented by D. O'Hagan, acting as Agent, and P. Gallagher, E. Fitzsimons SC and E. Regan BL, with an address for service in Luxembourg,

Kingdom of the Netherlands, represented by H.G. Sevenster and C. Wissels, acting as Agents,

Portuguese Republic, represented by L. Fernandes and A. Fraga Pires, acting as Agents,

Republic of Finland, represented by A. Guimaraes-Purokoski, acting as Agent, with an address for service

in Luxembourg,

Kingdom of Sweden, represented by A. Kruse, K. Wistrand and A. Falk, acting as Agents,

United Kingdom of Great Britain and Northern Ireland, represented by C. Jackson, acting as Agent, and R. Plender QC,

interveners,

THE COURT (Grand Chamber),

composed of V. Skouris, President, P. Jann, C.W.A. Timmermans, A. Rosas, R. Silva de Lapuerta and A. Borg Barthet, Presidents of Chambers, R. Schintgen (Rapporteur), N. Colneric, S. von Bahr, J. N. Cunha Rodrigues, G. Arestis, M. Ilešič and J. Malenovský, Judges,

Advocate General: D. Ruiz-Jarabo Colomer,

Registrar: K. Sztranc, Administrator,

having regard to the written procedure and further to the hearing on 5 April 2005,

after hearing the Opinion of the Advocate General at the sitting on 26 May 2005,

gives the following

Judgment

1 By its application the Commission of the European Communities is seeking annulment of 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; ‘the framework decision’).

Legal framework and background

2 On 27 January 2003, on the initiative of the Kingdom of Denmark, the Council of the European Union adopted the framework decision.

3 Based on Title VI of the Treaty on European Union, in particular Articles 29 EU, 31(e) EU and 34(2)(b) EU, as worded prior to the entry into force of the Treaty of Nice, the framework decision constitutes, as is clear from the first three recitals in its preamble, the instrument by which the European Union intends to respond with concerted action to the disturbing increase in offences posing a threat to the environment.

4 The framework decision lays down a number of environmental offences, in respect of which the Member States are required to prescribe criminal penalties.

5 Thus, Article 2 of the framework decision, entitled ‘Intentional offences’, provides:

‘Each Member State shall take the necessary measures to establish as criminal offences under its domestic law

(a) the discharge, emission or introduction of a quantity of substances or ionising radiation into air, soil or water which causes death or serious injury to any person;

(b) the unlawful discharge, emission or introduction of a quantity of substances or ionising radiation into air, soil or water which causes or is likely to cause their lasting or substantial deterioration or death or serious injury to any person or substantial damage to protected monuments, other protected objects, property,

animals or plants;

(c) the unlawful disposal, treatment, storage, transport, export or import of waste, including hazardous waste, which causes or is likely to cause death or serious injury to any person or substantial damage to the quality of air, soil, water, animals or plants;

(d) the unlawful operation of a plant in which a dangerous activity is carried out and which, outside the plant, causes or is likely to cause death or serious injury to any person or substantial damage to the quality of air, soil, water, animals or plants;

(e) the unlawful manufacture, treatment, storage, use, transport, export or import of nuclear materials or other hazardous radioactive substances which causes or is likely to cause death or serious injury to any person or substantial damage to the quality of air, soil, water, animals or plants;

(f) the unlawful possession, taking, damaging, killing or trading of or in protected wild fauna and flora species or parts thereof, at least where they are threatened with extinction as defined under national law;

(g) the unlawful trade in ozone-depleting substances,

when committed intentionally.'

6 Article 3 of the framework decision, entitled 'Negligent offences', provides:

'Each Member State shall take the necessary measures to establish as criminal offences under its domestic law, when committed with negligence, or at least serious negligence, the offences enumerated in Article 2.'

7 Article 4 of the framework decision states that each Member State is to take the necessary measures to ensure that participating in or instigating the conduct referred to in Article 2 is punishable.

8 Article 5(1) of the framework decision provides that the penalties thus laid down must be 'effective, proportionate and dissuasive' including, 'at least in serious cases, penalties involving deprivation of liberty which can give rise to extradition'. Article 5(2) adds that the criminal penalties 'may be accompanied by other penalties or measures'.

9 Article 6 of the framework decision governs the liability, as the result of an act or omission, of legal persons and Article 7 sets out the sanctions to which they are to be subject, which 'include criminal or non-criminal fines and may include other sanctions'.

10 Finally, Article 8 of the framework decision concerns jurisdiction and Article 9 deals with prosecutions brought by a Member State which does not extradite its own nationals.

11 The Commission objected in the various Council bodies to the legal basis relied on by the Council to require the Member States to impose criminal penalties on persons committing environmental offences. In its submission, the correct legal basis in that respect was Article 175(1) EC and it had indeed put forward, on 15 March 2001, a 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, 'the proposed directive'), based on Article 175 EC, the annex to which listed the Community law measures to which the offences set out in Article 3 of the proposal relate.

12 On 9 April 2002, the European Parliament expressed its view on both the proposed directive, at first reading, and on the draft framework decision.

13 It concurred with the Commission's view of the scope of the Community's competence, whilst calling on the Council (i) to use the framework decision as a measure complementing the directive that would take effect in relation to the protection of the environment through criminal law solely in respect of judicial

cooperation and (ii) to refrain from adopting the framework decision before adoption of the proposed directive (see texts adopted by the Parliament on 9 April 2002 bearing references A5-0099/2002 (first reading) and A5-0080/2002).

14 The Council did not adopt the proposed directive, but the fifth and seventh recitals to the framework decision are worded as follows:

‘(5) The Council considered it appropriate to incorporate into the present Framework decision a number of substantive provisions contained in the proposed Directive, in particular those defining the conduct which Member States have to establish as criminal offences under their domestic law.

…

(7) The Council has considered this proposal but has come to the conclusion that the majority required for its adoption by the Council cannot be obtained. The said majority considered that the proposal went beyond the powers attributed to the Community by the Treaty establishing the European Community and that the objectives could be reached by adopting a Framework-Decision on the basis of Title VI of the Treaty on European Union. The Council also considered that the present Framework Decision, based on Article 34 of the Treaty on European Union, is a correct instrument to impose on the member States the obligation to provide for criminal sanctions. The amended proposal submitted by the Commission was not of a nature to allow the Council to change its position in this respect.’

15 The Commission appended the following statement to the minutes of the Council meeting at which the framework decision was adopted:

‘The Commission takes the view that the Framework Decision is not the appropriate legal instrument by which to require Member States to introduce sanctions of a criminal nature at national level in the case of offences detrimental to the environment.

As the Commission pointed out on several occasions within Council bodies, it considers that in the context of the competences conferred on it for the purpose of attaining the objectives stated in Article 2 of the Treaty establishing the European Community, the Community is competent to require the Member States to impose sanctions at national level – including criminal sanctions if appropriate – where that proves necessary in order to attain a Community objective.

This is the case for environmental matters which are the subject of Title XIX of the Treaty establishing the European Community.

Furthermore, the Commission points out that its proposal for a Directive on the protection of the environment through criminal law has not been appropriately examined under the codecision procedure.

If the Council adopts the Framework Decision despite this Community competence, the Commission reserves all the rights conferred on it by the Treaty.’

The action

16 By order of the President of the Court of 29 September 2003, the Kingdom of Denmark, the Federal Republic of Germany, the Hellenic Republic, the Kingdom of Spain, the French Republic, Ireland, the Kingdom of the Netherlands, the Portuguese Republic, the Republic of Finland, the Kingdom of Sweden and the United Kingdom of Great Britain and Northern Ireland, on the one hand, and the Parliament, on the other, were granted leave to intervene in support of the form of order sought by the Council and the Commission respectively.

17 By order of 17 March 2004, the President of the Court dismissed the application brought by the European Economic and Social Committee for leave to intervene in support of the form of order sought by the

Commission.

Arguments of the parties

18 The Commission challenges the Council's choice of Article 34 EU, in conjunction with Articles 29 EU and 31(e) EU, as the legal basis for Articles 1 to 7 of the framework decision. It submits that the purpose and content of the latter are within the scope of the Community's powers on the environment, as they are stated in Article 3(1) EC and Articles 174 to 176 EC.

19 Although it does not claim that the Community legislature has a general competence in criminal matters, the Commission submits that the legislature is competent, under Article 175 EC, to require the Member States to prescribe criminal penalties for infringements of Community environmental-protection legislation if it takes the view that that is a necessary means of ensuring that the legislation is effective. The harmonisation of national criminal laws, in particular of the constituent elements of environmental offences to which criminal penalties attach, is designed to be an aid to the Community policy in question.

20 The Commission recognises that there is no precedent in this area. It relies, however, in support of its argument, on the case-law of the Court concerning the duty of loyal cooperation and the principles of effectiveness and equivalence (see, inter alia, Case 50/76 Amsterdam Bulb [1977] ECR 137, paragraph 33, Case C-186/98 Nunes and de Matos [1999] ECR I-4883, paragraphs 12 and 14, and the order of 13 July 1990 in Case C-2/88 IMM Zwartveld and Others [1990] ECR I-3365, paragraph 17).

21 Likewise, a number of regulations adopted in the sphere of fisheries and transport policy either require the Member States to bring criminal proceedings or impose restrictions on the types of penalties which those States may impose. The Commission refers, in particular, to two Community measures which require the Member States to introduce penalties which are necessarily criminal in nature, although that qualification has not been expressly employed (see Article 14 of Council Directive 91/308/EEC of 10 June 1991 on prevention of the use of the financial system for the purpose of money laundering (OJ 1991 L 166, p. 77) and Articles 1 to 3 of Council Directive 2002/90/EC of 28 November 2002 defining the facilitation of unauthorised entry, transit and residence (OJ 2002 L 328, p. 17)).

22 In addition, the Commission submits that the framework decision must in any event be annulled in part on the ground that Articles 5(2), 6 and 7 thereof leave the Member States free to prescribe penalties other than criminal penalties, even to choose between criminal and other penalties, which undeniably falls within the Community's competence.

23 However, the Commission does not maintain that the framework decision as a whole should have been the subject-matter of a directive. In particular, it does not dispute that Title VI of the Treaty on European Union is the appropriate legal basis for the provisions of the decision which deal with jurisdiction, extradition and prosecutions of persons who have committed offences. However, given that those provisions are incapable of existing independently, it must apply for annulment of the framework decision in its entirety.

24 The Commission also puts forward a ground of challenge alleging abuse of process. In that regard, it relies on the fifth and seventh recitals in the preamble to the framework decision, which show that the choice of an instrument under Title VI of the Treaty was based on considerations of expediency, since the proposed directive had failed to obtain the majority required for its adoption because a majority of Member States had refused to recognise that the Community had the necessary powers to require the Member States to prescribe criminal penalties for environmental offences.

25 The Parliament concurs with the Commission's arguments. It submits, more specifically, that the Council confused the Community's power to adopt the proposed directive and the power, not claimed by the Community, to adopt the framework decision in its entirety. The matters upon which the Council relies in support of its argument are, in reality, considerations of expediency concerning the choice of whether or not to impose solely criminal penalties, considerations which should have been dealt with in the legislative

procedure on the basis of Articles 175 EC and 251 EC.

26 The Council and the Member States which have intervened in these proceedings, with the exception of the Kingdom of the Netherlands, submit 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.

27 Not only is there no express conferral of power in that regard, but, given the considerable significance of criminal law for the sovereignty of the Member States, there are no grounds for accepting that this power can have been implicitly transferred to the Community at the time when specific substantive competences, such as those exercised under Article 175 EC, were conferred on it.

28 Articles 135 EC and 280 EC, which expressly reserve to the Member States the application of national criminal law and the administration of justice, confirm that interpretation.

29 That interpretation is also borne out by the fact that the Treaty on European Union devotes a specific title to judicial cooperation in criminal matters (see Articles 29 EU, 30 EU and 31(e) EU), which expressly confers on the European Union competence in criminal matters, in particular as regards the determination of the constituent elements of the relevant offences and penalties. The Commission's position is therefore contradictory, since it amounts, on the one hand, to claiming that the authors of the Treaty on European Union and the EC Treaty intended to confer by implication on the Community competence in criminal matters and, on the other, to disregarding the fact that the same authors expressly attributed such a competence to the European Union.

30 None of the judgments or secondary legislation to which the Commission refers lends support to its argument.

31 First, the Court has never obliged the Member States to adopt criminal penalties. According to its case-law, it is certainly the responsibility of the Member States to ensure that infringements of Community law are penalised under conditions, both procedural and substantive, which are analogous to those applicable to infringements of national law of a similar nature and importance, and the penalty must, moreover, be effective, dissuasive and proportionate to the infringement; furthermore, the national authorities must proceed with respect to infringements of Community law with the same diligence as that which they bring to bear in implementing corresponding national laws (see, in particular, Case 68/88 Commission v Greece [1989] ECR 2965, paragraphs 24 and 25). However, the Court has not held, either expressly or by implication, that the Community is competent to harmonise the criminal laws applicable in the Member States. It has rather held that the choice of penalties is a matter for the Member States.

32 Second, legislative practice is in keeping with that interpretation. The various pieces of secondary legislation restate the traditional form of words, by virtue of which 'effective, proportionate and dissuasive sanctions' are to be prescribed (see, for example, Article 3 of Directive 2002/90), but do not call into question the freedom of the Member States to choose between proceeding under administrative or criminal law. On the rare occasions when the Community legislature has specified that the Member States are to bring criminal or administrative proceedings, it has merely stated expressly the choice which was open to them in any event.

33 Furthermore, whenever the Commission has proposed to the Council that a Community measure having implications for criminal matters be adopted, the Council has detached the criminal part of that measure so that it may be dealt with in a framework decision (see Council Regulation (EC) No 974/98 of 3 May 1998 on the introduction of the euro (OJ 1998 L 139, p. 1), which had to be supplemented by Council Framework Decision 2000/383/JHA of 29 May 2000 on increasing protection by criminal penalties and other sanctions against counterfeiting in connection with the introduction of the euro (OJ 2000 L 140, p. 1); see also Directive 2002/90, supplemented by Council Framework Decision 2002/946/JHA of 28 November 2002 on the strengthening of the penal framework to prevent the facilitation of unauthorised entry, transit and residence (OJ 2002 L 328, p. 1)).

34 In this instance, regard being had to both its purpose and content, the framework decision concerns the harmonisation of criminal law. The mere fact that it seeks to combat environmental offences is not such as to found the Community's competence. In fact, the framework decision supplements Community law on environmental protection.

35 In addition, the Council contends that the plea alleging abuse of process is based on an incorrect reading of the preamble to the framework decision.

36 The Kingdom of the Netherlands, whilst supporting the form of order sought by the Council, adopts a slightly more qualified argument than the Council. It contends that, in exercising the powers conferred on it by the EC Treaty, the Community may require the Member States to provide for the possibility of punishing certain conduct under national criminal law, provided that the penalty is inseparably linked to the relevant substantive Community provisions and that it can actually be shown that imposing penalties under criminal law in that way is necessary for the achievement of the objectives of the Treaty in the area concerned (see Case C-240/90 Germany v Commission [1992] ECR I-5383). That could be the case if the enforcement of a harmonising rule based, for example, on Article 175 EC gave rise to a need for criminal penalties.

37 Conversely, if it is apparent from the content and nature of the proposed measure that it is intended essentially to bring about a general harmonisation of criminal laws and that the system of penalties is not inseparably linked to the area of Community law concerned, Articles 29 EU, 31(e) EU and 34(2)(b) EU are the correct legal basis for the measure. That is the case in this instance. It is clear from the purpose and content of the framework decision that it is intended, generally, to secure harmonisation of criminal laws in the Member States. The fact that rules adopted under the EC Treaty may be concerned is not decisive.

Findings of the Court

38 Article 47 EU provides that nothing in the Treaty on European Union is to affect the EC Treaty. That requirement is also found in the first paragraph of Article 29 EU, which introduces Title VI of the Treaty on European Union.

39 It is the task of the Court to ensure that acts which, according to the Council, fall within the scope of Title VI of the Treaty on European Union do not encroach upon the powers conferred by the EC Treaty on the Community (see Case C-170/96 Commission v Council [1998] ECR I-2763, paragraph 16).

40 It is therefore necessary to ascertain whether Articles 1 to 7 of the framework decision affect the powers of the Community under Article 175 EC inasmuch as those articles could, as the Commission maintains, have been adopted on the basis of the last-mentioned provision.

41 On that point, it is common ground that protection of the environment constitutes one of the essential objectives of the Community (see Case 240/83 ADBHU [1985] ECR 531, paragraph 13, Case 302/86 Commission v Denmark [1988] ECR 4607, paragraph 8, Case C-213/96 Outokumpu [1998] ECR I-1777, paragraph 32). In that regard, Article 2 EC states that the Community has as its task to promote 'a high level of protection and improvement of the quality of the environment' and, to that end, Article 3(1)(l) EC provides for the establishment of a 'policy in the sphere of the environment'.

42 Furthermore, in the words of Article 6 EC '[e]nvironmental protection requirements must be integrated into the definition and implementation of the Community policies and activities', a provision which emphasises the fundamental nature of that objective and its extension across the range of those policies and activities.

43 Articles 174 EC to 176 EC comprise, as a general rule, the framework within which Community environmental policy must be carried out. In particular, Article 174(1) EC lists the objectives of the Community's action on the environment and Article 175 EC sets out the procedures to be followed in order to achieve those objectives. The Community's powers are, in general, exercised in accordance with the

procedure laid down in Article 251 EC, following consultation of the Economic and Social Committee and the Committee of the Regions. However, in relation to certain spheres referred to in Article 175(2) EC, the Council takes decisions alone, acting unanimously on a proposal from the Commission after consulting the Parliament and the two abovementioned bodies.

44 As the Court has previously held, the measures referred to in the three indents of the first subparagraph of Article 175(2) EC all imply the involvement of the Community institutions in areas such as fiscal policy, energy policy or town and country planning policy, in which, apart from Community policy on the environment, either the Community has no legislative powers or unanimity within the Council is required (Case C-36/98 Spain v Council [2001] ECR I-779, paragraph 54).

45 Moreover, it must be borne in mind that, according to the Court's settled case-law, the choice of the legal basis for a Community measure must rest on objective factors which are amenable to judicial review, including in particular the aim and the content of the measure (see, inter alia, Case C-300/89 Commission v Council [1991] ECR I-2867, 'Titanium dioxide', paragraph 10, and Case C-336/00 Huber [2002] ECR I-7699, paragraph 30).

46 As regards the aim of the framework decision, it is clear both from its title and from its first three recitals that its objective is the protection of the environment. The Council was concerned 'at the rise in environmental offences and their effects which are increasingly extending beyond the borders of the States in which the offences are committed', and, having found that those offences constitute 'a threat to the environment' and 'a problem jointly faced by the Member States', concluded that 'a tough response' and 'concerted action to protect the environment under criminal law' were called for.

47 As to the content of the framework decision, Article 2 establishes a list of particularly serious environmental offences, in respect of which the Member States must impose criminal penalties. Articles 2 to 7 of the decision do indeed entail partial harmonisation of the criminal laws of the Member States, in particular as regards the constituent elements of various criminal offences committed to the detriment of the environment. As a general rule, neither criminal law nor the rules of criminal procedure fall within the Community's competence (see, to that effect, Case 203/80 Casati [1981] ECR 2595, paragraph 27, and Case C-226/97 Lemmens [1998] ECR I-3711, paragraph 19).

48 However, the last-mentioned finding 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 which 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.

49 It should also be added that in this instance, although Articles 1 to 7 of the framework decision determine that certain conduct which is particularly detrimental to the environment is to be criminal, they leave to the Member States the choice of the criminal penalties to apply, although, in accordance with Article 5(1) of the decision, the penalties must be effective, proportionate and dissuasive.

50 The Council does not dispute that the acts listed in Article 2 of the framework decision include infringements of a considerable number of Community measures, which were listed in the annex to the proposed directive. Moreover, it is apparent from the first three recitals to the framework decision that the Council took the view that criminal penalties were essential for combating serious offences against the environment.

51 It follows from the foregoing that, on account of both their aim and their content, Articles 1 to 7 of the framework decision have as their main purpose the protection of the environment and they could have been properly adopted on the basis of Article 175 EC.

52 That finding is not called into question by the fact that Articles 135 EC and 280(4) EC reserve to the Member States, in the spheres of customs cooperation and the protection of the Community's financial

interests respectively, the application of national criminal law and the administration of justice. It is not possible to infer from those provisions that, for the purposes of the implementation of environmental policy, any harmonisation of criminal law, even as limited as that resulting from the framework decision, must be ruled out even where it is necessary in order to ensure the effectiveness of Community law.

53 In those circumstances, the entire framework decision, being indivisible, infringes Article 47 EU as it encroaches on the powers which Article 175 EC confers on the Community.

54 There is therefore no need to examine the Commission's argument that the framework decision should in any event be annulled in part in so far as Articles 5(2), 6 and 7 leave the Member States free also to provide for penalties other than criminal penalties, even to choose between criminal penalties and other penalties, matters allegedly falling undeniably within the Community's competence.

55 In the light of all the foregoing, the framework decision must be annulled.

Costs

56 Under Article 69(2) of the Rules of Procedure, the unsuccessful party is to be ordered to pay the costs if they have been applied for in the successful party's pleadings. Since the Commission has applied for costs and the Council has been unsuccessful, the Council must be ordered to pay the costs. Pursuant to the first paragraph of Article 69(4), the interveners in these proceedings must bear their own costs.

On those grounds, the Court (Grand Chamber) hereby:

1. Annuls Council Framework Decision 2003/80/JHA of 27 January 2003 on the protection of the environment through criminal law;

2. Orders the Council of the European Union to pay the costs;

3. Orders the Kingdom of Denmark, the Federal Republic of Germany, the Hellenic Republic, the Kingdom of Spain, the French Republic, Ireland, the Kingdom of the Netherlands, the Portuguese Republic, the Republic of Finland, the Kingdom of Sweden, the United Kingdom of Great Britain and Northern Ireland and the European Parliament to bear their own costs.

[Signatures]

(*) Language of the case: French.