Environmental protection: combating crime, criminal offences and penalties

2001/0076(COD) - 13/09/2005

The Court of Justice upheld the Commission's application and annulled the Council's Framework Decision (2003/80/JHA) on protection of the environment through criminal law (see summary dated 31/03/2003). The Commission had been supported in these proceedings by the European Parliament and the Economic and Social Committee.

The Court's ruling confirmed the Commission's central argument that, on account of both its aim and content, the Framework Decision had as its main purpose the protection of the environment, and the majority of its provisions could therefore have been properly adopted on the basis of the EC Treaty (the "Community method"), i.e. through the directive proposed by the Commission, rather than on the "third pillar" of the EU Treaty as the Council had chosen.

The Court's judgment was based on the following line of reasoning: 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 adopted by the Council in 2003 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 annulled that Decision in its entirety. This will now pave the way for the substance of the annulled Decision to be adopted under the EC legislative procedure, with Parliament having full rights as co-legislator and the Council deciding by qualified majority.