

**Judgment of the Court (Second Chamber) of 4 October 2018 — European Commission v Federal Republic of Germany**

(Case C-668/16) <sup>(1)</sup>

**(Failure of a Member State to fulfil obligations — Directive 2006/40/EC — Emissions from air-conditioning systems in motor vehicles — Article 5(4) and (5) — Directive 2007/46/EC — Approval of motor vehicles — Articles 12, 29, 30 and 46 — Vehicles not conforming to technical requirements — Responsibility of the national authorities)**

(2018/C 436/05)

Language of the case: German

**Parties**

Applicant: European Commission (represented by: C. Hermes and D. Kukovec and by C. Becker, acting as Agents,)

Defendant: Federal Republic of Germany (represented by: T. Henze and D. Klebs, acting as Agents)

**Operative part of the judgment**

The Court:

1. Declares that, the Federal Republic of Germany has failed to fulfil its obligations:

- under Directive 2006/40/EC of the European Parliament and of the Council of 17 May 2006 relating to emissions from air-conditioning systems in motor vehicles and amending Council Directive 70/156/EEC, and Articles 12 and 30 of Directive 2007/46/EC of the European Parliament and of the Council of 5 September 2007 establishing a framework for the approval of motor vehicles and their trailers, and of systems, components and separate technical units intended for such vehicles (Framework Directive), as amended by Commission Regulation (EU) No 371/2010 of 16 April 2010, by failing to take the measures necessary, within the period prescribed in the reasoned opinion, to re-establish conformity to their approved types of 133 713 vehicles of types 246, 176 and 117, sold by Daimler between 1 January and 26 June 2013, when they were fitted not with the refrigerant R1234yf declared for those approved types, but a refrigerant having a global warming potential which was greater than 150, contrary to the limit laid down in Article 5(4) of Directive 2006/40, and
- under Directive 2006/40 and the combined provisions of Articles 46, 5 and 18 of Directive 2007/46, by failing to take the measures necessary to apply the penalties referred to in Article 46 of Directive 2007/46 within the period prescribed in the reasoned opinion, in order to ensure that manufacturers comply with Articles 5 and 18 of that directive, relating to the conformity of production and the issue of a certificate of conformity;

2. Dismisses the action as to the remainder;

3. Orders the Federal Republic of Germany to bear its own costs and to pay half of the costs incurred by the European Commission;

4. Orders the European Commission to bear half of its own costs.

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<sup>(1)</sup> OJ C 70, 6.3.2017.