

**Operative part of the judgment**

The Court:

1. Declares that, by refusing to calculate, declare and make available to the European Commission the own resources relating to imports of military material during the period from 1 January 1998 to 31 December 2002 and by refusing to pay default interest payable due to the failure to make those own resources available to the European Commission, the Federal Republic of Germany has failed to fulfil its obligations under Article 2 and Articles 9 to 11 of Council Regulation (EEC, Euratom) No 1552/89 of 29 May 1989 implementing Decision 88/376/EEC, Euratom on the system of the Communities' own resources, as amended by Council Regulation (Euratom, EC) No 1355/96 of 8 July 1996, and the same articles of Council Regulation (EC, Euratom) No 1150/2000 of 22 May 2000 implementing Decision 94/728/EC, Euratom on the system of the Communities' own resources;
2. Orders the Federal Republic of Germany to pay the costs;
3. Orders the Kingdom of Denmark, the Hellenic Republic and the Republic of Finland to bear their own costs.

(<sup>1</sup>) OJ C 296, 26.11.2005.

**Judgment of the Court (Grand Chamber) of 15 December 2009 — European Commission v Italian Republic**

(Case C-387/05) (<sup>1</sup>)

**(Failure of a Member State to fulfil obligations — Duty-free imports of dual-use material for civil and military use)**

(2010/C 51/05)

Language of the case: Italian

**Parties**

**Applicant:** European Commission (represented by: G. Wilms, L. Visaggio and C. Cattabriga, Agents)

**Defendant:** Italian Republic (represented by: I.M. Braguglia, Agent, and G. De Bellis, avvocato dello Stato)

**Interveners in support of the defendant:** Kingdom of Denmark (represented by: J. Bering Liisberg, Agent) Hellenic Republic (represented by: E.-M. Mamouna, A. Samoni-Rantou and K. Boskovits, Agents), Portuguese Republic (represented by: C. Guerra Santos, L. Inez Fernandes and J. Gomes, Agents),

Republic of Finland (represented by: A. Guimaraes-Purokoski, Agent)

**Re:**

Failure of a Member State to fulfil obligations — Breach of Article 26 EC and various provisions of the customs legislation (Article 20 of Council Regulation (EEC) No 2913/92 of 12 October 1992 establishing the Community Customs Code (OJ 1992 L 302, p. 1), Articles 2, 9, 10 and 17(1) of Council Regulation (EEC, Euratom) No 1552/89 of 29 May 1989 implementing Decision 88/376/EEC, Euratom on the system of the Communities' own resources (OJ 1989 L 155, p. 1)) and the corresponding provisions of Council Regulation (EC, Euratom) No 1150/2000 of 22 May 2000 (OJ 2000 L 130, p. 1) — Duty free imports of material for military and civilian use — Refusal to calculate the amounts which ought to have been levied and made available as the Communities' own resources

**Operative part of the judgment**

The Court:

1. Declares that, by exempting imports of material capable of use both for civil and military purposes from customs duties during the period from 1 January 1999 until 31 December 2002 and by refusing to calculate, declare and make available to the European Commission the own resources which were not collected because of that exemption and the default interest payable because of the failure to make those own resources available to the European Commission in good time, the Italian Republic has failed to fulfil its obligations under, on the one hand, Article 26 EC, Article 20 of Council Regulation (EEC) No 2913/92 of 12 October 1992 establishing the Community Customs Code and, consequently, the Common Customs Tariff and, on the other, Articles 2, 9, 10 and 17(1) of Council Regulation (EEC, Euratom) No 1552/89 of 29 May 1989 implementing Decision 88/376/EEC, Euratom on the system of the Communities' own resources, as amended by Council Regulation (Euratom, EC) No 1355/96 of 8 July 1996, and the same articles of Council Regulation (EC, Euratom) No 1150/2000 of 22 May 2000 implementing Decision 94/728/EC, Euratom on the system of the Communities' own resources.
2. Orders the Italian Republic to pay the costs.
3. Orders the Kingdom of Denmark, the Hellenic Republic, the Portuguese Republic and the Republic of Finland to bear their own costs.

(<sup>1</sup>) OJ C 22, 28.1.2006.