

Re:

Reference for a preliminary ruling — Hof van Cassatie van België — Interpretation of Article 43(1) of Council Regulation (EC) No 44/2001 of 22 December 2000 on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters ('Brussels I') (OJ 2001 L 12, p. 1) — Notion of 'party' — Action brought by a creditor in the name and for the account of his debtor — Decision relating to a request for a declaration of enforceability

Operative part of the judgment

Article 43(1) of Council Regulation (EC) No 44/2001 of 22 December 2000 on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters must be interpreted as meaning that a creditor of a debtor cannot lodge an appeal against a decision on a request for a declaration of enforceability if he has not formally appeared as a party in the proceedings in which another creditor of that debtor applied for that declaration of enforceability.

(¹) OJ C 183, 19.7.2008.

**Judgment of the Court (Eighth Chamber) of 23 April 2009
— Commission of the European Communities v Kingdom of Spain**

(Case C-321/08) (¹)

(Failure of a Member State to fulfil obligations — Directive 2005/29/EC — Unfair business-to-consumer commercial practices in the internal market — Failure to transpose within the prescribed period)

(2009/C 141/31)

Language of the case: Spanish

Parties

Applicant: Commission of the European Communities (represented by: W. Wils and E. Adsera Ribera, acting as Agents)

Defendant: Kingdom of Spain (represented by: B. Plaza Cruz, acting as Agent)

Re:

Failure of a Member State to fulfil obligations — Failure to adopt, within the prescribed period, the provisions necessary to comply with Directive 2005/29/EC of the European Parliament and of the Council of 11 May 2005 concerning unfair business-to-consumer commercial practices in the internal market and amending Council Directive 84/450/EEC, Directives 97/7/EC, 98/27/EC and 2002/65/EC of the European Parliament and of the Council and Regulation (EC) No 2006/2004 of the European Parliament and of the Council ('Unfair Commercial Practices Directive') (OJ 2005 L 149, p. 22)

Operative part of the judgment

The Court:

1. Declares that by failing to adopt, within the prescribed period, the laws, regulations and administrative provisions necessary to comply with Directive 2005/29/EC of the European Parliament and of the Council of 11 May 2005 concerning unfair business-to-

consumer commercial practices in the internal market and amending Council Directive 84/450/EEC, Directives 97/7/EC, 98/27/EC and 2002/65/EC of the European Parliament and of the Council and Regulation (EC) No 2006/2004 of the European Parliament and of the Council ('Unfair Commercial Practices Directive'), the Kingdom of Spain has failed to fulfil its obligations under that directive;

2. Orders the Kingdom of Spain to pay the costs.

(¹) OJ C 223, 30.08.2008.

**Judgment of the Court (Seventh Chamber) of 2 April 2009
— Commission of the European Communities v Republic of Austria**

(Case C-401/08) (¹)

(Failure of a Member State to fulfil obligations — Directive 96/82/EC — Major-accident hazards involving dangerous substances — Article 11(1)(c) — Drawing up of external emergency plans for the measures to be taken outside the establishment — Failure to transpose within the prescribed period)

(2009/C 141/32)

Language of the case: German

Parties

Applicant: Commission of the European Communities (represented by: B. Schima and A. Sipos, Agents)

Defendant: Republic of Austria (represented by: E. Reidl, Agent)

Re:

Failure of a Member State to fulfil obligations — Infringement of Article 11(1)(c) of Council Directive 96/82/EC of 9 December 1996 on the control of major-accident hazards involving dangerous substances, as amended by Directive 2003/105/EC (OJ 1997 L 10, p. 13) — Failure to draw up certain external emergency plans for the measures to be taken outside the establishments

Operative part of the judgment

The Court:

1. Declares that, by failing to draw up an external emergency plan for all establishments subject to the provisions of Article 9 of Council Directive 96/82/EC of 9 December 1996 on the control of major-accident hazard involving dangerous substances, as amended by Directive 2003/105/EC of the European Parliament and of the Council of 16 December 2003, the