

**Judgment of the Court (Fifth Chamber) of 9 July 2009 — Commission v Spain**

**(Case C-272/08)**

(Failure of a Member State to fulfil obligations — Directive 2004/83/EC — Right of asylum — Failure to transpose within the prescribed period)

1. *Acts of the institutions — Directives — Implementation by Member States — Transposition of a directive without legislative action (Art. 249 EC) (see paras 8, 9)*
2. *Member States — Obligations — Implementation of directives — Failure to fulfil obligations — National system pleaded as justification (Art. 226 EC) (see para. 10)*

**Re:**

Failure of a Member State to fulfil obligations — Failure to adopt, within the prescribed period, the provisions necessary to comply with Council Directive 2004/83/EC of 29 April 2004 on minimum standards for the qualification and status of third country nationals or stateless persons as refugees or as persons who otherwise need international protection and the content of the protection granted (OJ 2004 L 304, p. 12).

**Operative part**

The Court:

1. Declares that, by not adopting, within the prescribed period, all the laws, regulations and administrative provisions necessary to comply with Council Directive 2004/83/EC of 29 April 2004 on minimum standards for the qualification and status of third country nationals or stateless persons as refugees or as persons who otherwise need international protection and the content of the protection granted, the Kingdom of Spain has failed to fulfil its obligations under that directive;
2. Orders the Kingdom of Spain to pay the costs.