

**Judgment of the Court (Third Chamber) of 7 October 2010 —  
Commission v Portugal**

**(Case C-154/09)**

(Failure of a Member State to fulfil obligations — Directive 2002/22/EC —  
Electronic communications — Networks and services — Articles 3(2) and 8(2) —  
Designation of undertakings responsible for universal service obligations —  
Incorrect transposition)

1. *Approximation of laws — Telecommunications sector — Universal service and users' rights — Directive 2002/22 — Designation of undertakings for the provision of the universal service — Obligation to use an efficient, objective, transparent and non-discriminatory designation procedure (European Parliament and Council Directive 2002/22, Arts 3(2) and 8(2)) (see paras 34-39, 42-49)*
2. *Member States — Obligations — Implementation of directives — Failure to fulfil obligations — Justification — Not permissible (Art. 226 EC) (see paras 37-38)*
3. *Actions for failure to fulfil obligations — Right of the Commission to bring judicial proceedings — To be exercised at its discretion (Art. 226 EC) (see para. 51)*

**Re:**

Failure of a Member State to fulfil obligations — Infringement of Articles 3(2) and 8(2) of Directive 2002/22/EC of the European Parliament and of the Council of 7 March 2002 on universal service and users' rights relating to electronic communications networks and services (Universal Service Directive) (OJ 2002 L 108, p. 51) — Designation of the undertakings responsible for universal service obligations.

## Operative part

The Court:

1. Declares that, by failing to transpose correctly into national law the provisions of European Union law governing the designation of universal service provider(s) and, in any event, by failing to ensure that those provisions are applied in practice, the Portuguese Republic has failed to fulfil its obligations under Articles 3(2) and 8(2) of Directive 2002/22/EC of the European Parliament and of the Council of 7 March 2002 on universal service and users' rights relating to electronic communications networks and services (Universal Service Directive).
2. Orders the Portuguese Republic to pay the costs.

### **Judgment of the Court (Fifth Chamber) of 7 October 2010 — Commission v Slovenia**

**(Case C-49/10)**

(Failure of a Member State to fulfil obligations — Environment — Directive 2008/1/EC — Integrated pollution prevention and control — Requirements for the granting of permits for existing installations — Failure to transpose within the prescribed period)

1. *Actions for failure to fulfil obligations — Examination of the merits by the Court — Situation to be taken into consideration — Situation on expiry of the period laid down in the reasoned opinion (Art. 258 TFEU) (see para. 23)*
2. *Member States — Obligations — Implementation of directives — Failure to fulfil obligations — National system pleaded as justification — Not permissible (Art. 258 TFEU) (see para. 24)*