

unlawfully abstained from replying to the letter of 6 October 2009 sent by the appellant, an application for the issue of directions and a request for protective measures.

Operative part

1. The appeal is dismissed.
2. Mr Victoria Sánchez is ordered to pay the costs.

Judgment of the Court (Sixth Chamber) of 27 October 2011 — Commission v Poland

(Case C-311/10)

(Failure of a Member State to fulfil obligations — Directive 2007/46/EC — Approval of motor vehicles and their trailers, and of systems, components and separate technical units intended for such vehicles — Failure to transpose within the period prescribed — Incomplete transposition)

1. *Member States — Obligations — Implementation of directives — Failure to fulfil obligations — Defence based on difficulties of interpretation — Not permissible (Art. 258 TFEU) (see para. 16)*
2. *Union law — Interpretation — Texts in several languages — Differences between the various language versions — General scheme and aims of the legislation in question taken into consideration (see para. 18)*

3. *Acts of the institutions — Directives — Implementation by Member States — Necessity of clear and precise transposition — Possible subsequent amendment to the annexes governing the technical aspects of and the implementing rules for the directive — No effect on the obligation to transpose the directive (Art. 288, third para., TFEU) (see paras 24-25, 77)*
4. *Actions for failure to fulfil obligations — Proof of failure — Burden of proof on the Commission — Presumptions — Not permissible — Failure to fulfil the obligation to inform placed on the Member States by the directive — Consequences (Art. 4(3) TFEU; Arts 17 TFEU and 258 TFEU) (see paras 30, 32-33, 52)*
5. *Acts of the institutions — Directives — Implementation by Member States — Transposition of a directive without legislative action — Conditions — Existence of a general legal context ensuring the full application of the directive (Art. 288, third para., TFEU) (see paras 40, 47)*
6. *Acts of the institutions — Directives — Implementation by Member States — Necessity of full transposition into national law (Art. 288, third para., TFEU) (see paras 48, 50)*

Re:

Failure of a Member State to fulfil obligations — Failure to adopt, within the period prescribed, the provisions necessary to give effect to 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) (OJ 2007 L 263, p. 1)

Operative part

The Court:

1. Declares that, by failing to communicate to the European Commission the laws, regulations and administrative provisions implementing 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, the Republic of Poland has failed to fulfil its obligations under Article 48 of that directive;

2. Declares that, by failing to adopt, within the prescribed period, all the laws, regulations and administrative provisions necessary to implement Directive 2007/46, the Republic of Poland has failed to fulfil its obligations under Article 48 of that directive;
3. Orders the Republic of Poland to pay the costs.

**Judgment of the Court (Sixth Chamber) of 27 October 2011 —
Commission v Poland**

(Case C-362/10)

(Failure of a Member State to fulfil obligations — Directive 2003/98/EC — Re-use of public sector information — Incorrect transposition of or failure to transpose certain articles within the period prescribed)

1. *Acts of the institutions — Directives — Implementation by Member States — Transposition of a directive without legislative action — Conditions — Existence of a general legal context ensuring the full application of the directive (Art. 288, third para., TFEU; European Parliament and Council Directive 2003/98) (see paras 46, 60)*