

of 24 July 1973 on the coordination of laws, regulations and administrative provisions relating to the taking-up and pursuit of the business of direct insurance other than life assurance, as amended by Directive 2005/68/EC of the European Parliament and of the Council of 16 November 2005 and Articles 22 and 23 of Council Directive 92/49/EEC of 18 June 1992 on the coordination of laws, regulations and administrative provisions relating to direct insurance other than life assurance and amending Directives 73/239 and 88/357/EEC (third non-life insurance Directive), as amended by Directive 2005/68, Ireland has failed to fulfil its obligations under those directives;

2. Orders Ireland to pay the costs.

**Judgment of the Court (Seventh Chamber) of 29 September 2011 —
Commission v Austria**

(Case C-387/10)

(Failure of a Member State to fulfil obligations — Freedom to provide services — Legislation of a Member State concerning investment funds and real property investment funds — Evidence relating to revenue regarded as distributed — Evidence provided through a tax representative — ‘National’ financial institutions and business trustees recognised as tax representatives)

Freedom to provide services — Restrictions — National legislation limiting the tax representation of investment funds and real property investment funds to national financial institutions and national business trustees — Not permissible — Not justified by the general interest (Art. 49 EC; EEA Agreement, Art. 36) (see paras 25, 31-34, operative part)

Re:

Failure of a Member State to fulfil obligations — Breach of Article 49 EC and of Article 36 of the Agreement of 2 May 1992 on the European Economic Area (OJ 1994 L 1, p. 3) — Legislation of a Member State restricting tax representation in respect of investment funds and real property investment funds to business trustees and financial institutions established in that State.

Operative part

The Court:

1. Declares that, by adopting and maintaining in force provisions under which only national financial institutions and national business trustees may be appointed as tax representatives of investment funds or real property investment funds, the Republic of Austria has failed to fulfil its obligations under Article 49 EC and Article 36 of the Agreement of 2 May 1992 on the European Economic Area;
2. Orders the Republic of Austria to pay the costs.

**Order of the Court (Fifth Chamber) of 30 September 2011 —
Quinta do Portal v OHIM**

(Case C-541/10P)

(Appeal — Community trade mark — Regulation (EC) No 207/2009 — Article 8(1)(b) — Community word mark PORTO ALEGRE — Earlier national word mark VISTA ALEGRE — Relative ground for refusal — Likelihood of confusion — Declaration of invalidity of the mark)