

## Operative part

The Court:

1. Declares that, by failing to adopt, within the prescribed period, the measures necessary to recover from the beneficiaries all the aid granted under the aid scheme declared incompatible with the common market by Commission Decision 2005/315/EC of 20 October 2004 on the aid scheme implemented by Italy for firms investing in municipalities seriously affected by natural disasters in 2002, the Italian Republic has failed to fulfil its obligations under Article 5 of that decision;
2. Orders the Italian Republic to pay the costs.

### **Order of the Court (Sixth Chamber) of 14 July 2011 — Ruipérez Aguirre and ATC Petition v Commission**

**(Case C-111/11P)**

(Appeal — Action for annulment — Commission's refusal to bring infringement proceedings — Inadmissibility — Appeal manifestly unfounded)

*Actions for annulment — Actionable measures — Commission's refusal to bring infringement proceedings — Excluded (Arts 258 TFEU and 263 TFEU) (see paras 11-16)*

**Re:**

Appeal against the judgment of the General Court (Fourth Chamber) of 20 January 2011 in Case T-487/10 *Ruipérez Aguirre and ATC Petition v Commission*, by which that court dismissed an action for the annulment of the decisions of the Commission of 27 July and 11 August 2010, refusing to initiate infringement proceedings against the Kingdom of Spain under Article 258 TFEU.

## Operative part

The Court:

1. Dismisses the appeal;
2. Orders Mr Ruipérez Aguirre and ATC Petition to pay their own costs.

### **Judgment of the Court (Fifth Chamber) of 21 July 2011 — Commission v Portugal**

**(Case C-518/09)**

(Failure of a Member State to fulfil obligations — Freedom of establishment and freedom to provide services — Carrying on real property activities)

1. *Freedom of establishment — Freedom to provide services — Restrictions — National legislation not drawing a distinction between freedom of establishment and freedom to provide services for real property brokers and estate agents — Real property brokers and estate agents established in another Member State obliged to set up an estate agency in the Member State concerned in order to be permitted to carry on business there — Not permissible — No justification — (Arts 49 TFEU and 56 TFEU) (see paras 61-75, 87, operative part)*
2. *Freedom to provide services — Restrictions — National legislation, first, requiring real property brokers and estate agents to take out insurance compatible with that Member State's legislation and to hold positive equity and, secondly, making those brokerage firms subject to the full disciplinary control of the national body responsible for the construction sector — Not permissible — No justification — (Art. 56 TFEU) (see paras 76-84, 87, operative part)*