

**Action brought on 18 July 2012 — European Commission
v Italian Republic**

(Case C-344/12)

(2012/C 287/49)

Language of the case: Italian

Parties

Applicant: European Commission (represented by: D. Grespan and G. Conte, acting as Agents)

Defendant: Italian Republic

Form of order sought

— Declare that, by having failed to adopt, within the periods prescribed, all the measures necessary to implement Decision C(2009) 8112 of 19 November 2009 concerning State aids Nos C 38/A/2004 (ex NN 58/2004) and C 36/B/2006 (ex NN 38/2006) granted by Italy to Alcoa Trasformazioni, the Italian Republic has failed to fulfil its obligations under Articles 2, 3 and 4 of that decision and under Article 288 TFEU;

— order the Italian Republic to pay the costs.

Pleas in law and main arguments

The subject-matter of the Commission's action is the failure by the Italian Republic to give effect to the Commission's decision relating to unlawful State aid granted to the company Alcoa.

First, pursuant to Article 4 of the decision in question, Italy was required to notify the Commission, by 20 January 2010, of the total amount of the aid to be recovered, of the measures adopted and envisaged for the purpose of complying with the decision and of the documents showing that the beneficiary had been required to repay the aid. Second, in accordance with Article 2, in conjunction with Article 3, of the decision, Italy was required to recover the aid from the beneficiary by 20 March 2010.

As at the date of commencement of this action, the defendant had not yet adopted all the measures necessary to comply with those obligations.

**Action brought on 19 July 2012 — European Commission
v Italian Republic**

(Case C-345/12)

(2012/C 287/50)

Language of the case: Italian

Parties

Applicant: European Commission (represented by: E. Montaguti and K. Hermann, acting as Agents)

Defendant: Italian Republic

Form of order sought

— Declare that, by failing to lay down an obligation to make available, when buildings are sold or rented out, an energy performance certificate, in accordance with the provisions, and on the conditions, laid down in Articles 7 and 10 of Directive 2002/91/EC of the European Parliament and of the Council of 16 December 2002 on the energy performance of buildings,⁽¹⁾ the Italian Republic has failed to fulfil its obligations under Article 7(1) and (2) and Article 10 of that directive, in conjunction with Article 29 of Directive 2010/31/EU of the European Parliament and of the Council of 19 May 2010 on the energy performance of buildings;⁽²⁾

— declare that, by having failed to notify all the measures transposing Article 9 of Directive 2002/91/EC, the Italian Republic has failed to fulfil its obligations under Article 15(1) of that directive, in conjunction with Article 29 of Directive 2010/31/EU of the European Parliament and of the Council of 19 May 2010 on the energy performance of buildings;

— order the Italian Republic to pay the costs.

Pleas in law and main arguments

The period for transposing Directive 2002/91/EC expired on 4 January 2006. The period for transposing Articles 7 to 9 of that directive expired on 4 January 2009 and, in the Commission's submission, Article 28 of Directive 2010/31/EU, which allows Member States to defer the application of the requirement to make energy performance certificates available, does not cover certificates already issued or to be issued on the basis of Article 7(1) of Directive 2002/91/EC.

At the date of commencement of this action, the defendant had not yet adopted all the measures necessary to implement the directive.

⁽¹⁾ OJ 2003 L 65, p. 1.

⁽²⁾ OJ 2010 L 153, p. 13.

**Appeal brought on 19 July 2012 by DMK Deutsches
Milchkontor GmbH (formerly Nordmilch AG) against the
judgment of the General Court (Fourth Chamber) delivered
on 22 May 2012 in Case T-546/10 Nordmilch AG v Office
for Harmonisation in the Internal Market (Trade Marks and
Designs)**

(Case C-346/12 P)

(2012/C 287/51)

Language of the case: German

Parties

Appellant: DMK Deutsches Milchkontor GmbH (formerly Nordmilch AG) (represented by: W. Berlit, Rechtsanwalt)