

Registrar, gave a judgment on 1 October 1998, the operative part of which is at follows:

1. *The application is dismissed;*
2. *The Italian Republic is ordered to pay the costs.*

(¹) OJ C 294, 5.10.1996.

JUDGMENT OF THE COURT

(Second Chamber)

of 1 October 1998

in Case C-38/97 (reference for a preliminary ruling from the Giudice di Pace di Genova): Autotrasporti Librandi Snc di Librandi F. & C. v. Cuttica Spedizioni e Servizi Internazionali Srl (¹)

(*Competition — Road transport — Mandatory tariff — State legislation — Concepts of general interest and public interest*)

(98/C 358/08)

(*Language of the case: Italian*)

(*Provisional translation; the definitive translation will be published in the European Court Reports*)

In Case C-38/97: reference to the Court under Article 177 of the EC Treaty from the Giudice di Pace di Genova (Magistrate's Court, Genoa) (Italy), for a preliminary ruling in the proceedings pending before that court between Autotrasporti Librandi Snc di Librandi F. & C. and Cuttica Spedizioni e Servizi Internazionali Srl — on the interpretation of Article 3(f) and (g), and Articles 5, 85 and 86 of the EC Treaty and of the concepts of 'general interest' and 'collective agreement' — the Court (Second Chamber), composed of: R. Schintgen (Rapporteur), President of the Chamber, G. F. Mancini and G. Hirsch, Judges; S. Alber, Advocate-General; L. Hewlett, Administrator, for the Registrar, has given a judgment on 1 October 1998, in which it has ruled:

1. *Article 3(f) and (g), and Articles 5, 85, 86 and 90 of the EC Treaty do not preclude legislation of a Member State which provides for road-haulage tariffs to be approved and brought into force by the State on the basis of proposals of a central committee the majority of whose members are representatives of the economic agents concerned and which extends the mandatory tariffs applicable in the field of contracts for the carriage of goods by road to other types of contracts, relating to different services, such as, in particular, contracts under invitations to tender and contracts for*

hire, provided that the tariffs are fixed with due regard for the public-interest criteria defined by Law No 298 and the public authorities do not hand over their prerogatives to private economic agents in taking into account, before the approval of proposals, of the observations of other public and private bodies and even by fixing tariffs ex officio.

2. *The concept of general interest to which the Court referred in its judgments in Case C-185/91 Reiff and in Case C-153/93 Delta Schiffahrts- und Speditionsgesellschaft corresponds to the concept of public interest mentioned in its judgment in Case C-96/94 Centro Servizi Spedito.*
3. *It is for the Member States to determine the specific criteria to be used in fixing tariffs, such as those in force under Italian law, and for the national courts to determine whether the criteria thus defined are respected in practice.*
4. *The fact that collective agreements such as those provided for in Article 13 of the Ministerial Decree of 18 November 1982 can be concluded and that they are even enforceable under national law against operators who have not signed them does not have the effect of restricting competition within the meaning of Article 85 of the Treaty.*

(¹) OJ C 94, 22.3.1997.

JUDGMENT OF THE COURT

(Sixth Chamber)

of 1 October 1998

in Case C-71/97: Commission of the European Communities v. Kingdom of Spain (¹)

(*Failure by a Member State to fulfil its obligations — Failure to transpose a directive*)

(98/C 358/09)

(*Language of the case: Spanish*)

(*Provisional translation; the definitive translation will be published in the European Court Reports*)

In Case C-71/97: Commission of the European Communities (Agent: Fernando Castillo de la Torre) v. Kingdom of Spain (Agent: Santiago Ortiz Vaamonde) — application for a declaration that, first, by failing to designate the zones considered to be vulnerable and to notify the Commission of those designations and, second,