

obligations under that directive, the Court (First Chamber), composed of: M. Wathelet (Rapporteur), President of the Chamber, P. Jann and A. Rosas, Judges; J. Mischo, Advocate General; R. Grass, Registrar, has given a judgment on 10 April 2003, in which it:

1. Declares that, by failing to adopt, within the prescribed period, all the laws, regulations and administrative measures necessary to comply with Directive 98/8/EC of the European Parliament and of the Council of 16 February 1998 concerning the placing of biocidal products on the market, the French Republic has failed to fulfil its obligations under that directive;
2. Orders the French Republic to pay the costs.

(<sup>1</sup>) OJ C 131 of 1.6.2002.

## ORDER OF THE COURT

(Fourth Chamber)

of 6 February 2003

**in Case C-492/01 P: Dieckmann & Hansen GmbH v Commission of the European Communities** (<sup>1</sup>)

**(Commission Decision 1999/244/EC of 26 March 1999 amending Decision 97/296/EC drawing up the list of third countries from which the import of fishery products is authorised for human consumption — Prohibition on the importation of caviar from Kazakhstan — Non-contractual liability of the Community — Appeal partly manifestly inadmissible and partly unfounded)**

(2003/C 135/10)

(Language of the case: German)

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

In Case 492/01 P: Dieckmann & Hansen GmbH, established in Hamburg (Germany), represented by H.-J. Rabe, lawyer — appeal against the judgment of the Court of First Instance of the European Communities, Fifth Chamber, of 23 October 2001 in Case T-155/99 Dieckmann & Hansen v Commission [2001] ECR II-3143, seeking to have that judgment set aside, the other party to the proceedings being Commission of the European Communities (Agents: G. Berscheid and M. Niejhar)

— the Court (Fourth Chamber), composed of C.W.A. Timmermans, President of Chamber, D.A.O. Edward and S. von Bahr (Rapporteur), Judges; P. Léger, Advocate General; R. Grass, Registrar, made an order on 6 February 2003, the operative part of which is as follows:

1. The appeal is dismissed.
2. Dieckmann & Hansen GmbH is ordered to pay the costs.

(<sup>1</sup>) OJ C 44, 16.2.2002.

## Action brought on 27 February 2003 by the Kingdom of Spain against the Council of the European Union

(Case C-87/03)

(2003/C 135/11)

An action against the Council of the European Union was brought before the Court of Justice of the European Communities on 27 February 2003 by the Kingdom of Spain, represented by Nuria Díaz Abad, Abogado del Estado, with an address for service in Luxembourg.

The applicant claims that the Court should:

- annul Council Regulation (EC) No 2341/2002 (<sup>1</sup>) of 20 December 2002 fixing for 2003 the fishing opportunities and associated conditions for certain fish stocks and groups of fish stocks, applicable in Community waters and, for Community vessels, in waters where catch limitations are required, in so far as it allocates certain quotas to the Spanish fleet in the Community waters of the North Sea and the Baltic Sea, and
- order the Council to pay the costs.

## Pleas in law and main arguments

- Infringement of the principle of non-discrimination: on completion of the transitional period on 31 December 2002, the situation of Spanish fishermen is the same as that of fishermen of the remaining Member States and they should enjoy equal access to waters and resources. However, by the contested regulation, Spanish fishermen are treated differently, since they are not allowed to fish in the waters of the North Sea and the Baltic Sea for virtually all the species subject to quotas.