

— by permitting, in Article 141(a) and Article 182(a) and (g) of that law, the negotiated procedure to be used in two cases which are not provided for in those directives,

the Kingdom of Spain has failed to fulfil its obligations under those directives;

2. Orders the Kingdom of Spain to pay the costs.

(¹) OJ C 101 of 26.4.2003

JUDGMENT OF THE COURT

(Second Chamber)

of 27 January 2005

in Case C-92/03: Commission of the European Communities v Portuguese Republic (¹)

(Failure of a Member State to fulfil obligations — Directive 75/439/EEC — Disposal of waste oils — Priority to processing by regeneration)

(2005/C 82/05)

(Language of the case: Portuguese)

In Case C-92/03: action under Article 226 EC for failure to fulfil obligations, brought on 28 February 2003 – Commission of the European Communities (Agents: A. Caeiros and M. Konstantinidis) v Portuguese Republic (Agents: L. Fernandes and M. Lois) supported by: Republic of Finland (Agent: A. Guimaraes-Purokoski) – the Court (Second Chamber), composed of C.W.A. Timmermans, President of the Chamber, R. Silva de Lapuerta (Rapporteur), C. Gulmann, R. Schintgen and J. Klučka, Judges; A. Tizzano, Advocate General; R. Grass, Registrar, gave a judgment on 27 January 2005, in which it:

1. Declares that, by failing to adopt the measures necessary to give priority to the processing of waste oils by regeneration where the technical, economic and organisational constraints so allow, the Portuguese Republic has failed to fulfil its obligations under Article 3(1) of Council Directive 75/439/EEC of 16 June 1975 on the disposal of waste oils, as amended by Council Directive 87/101/EEC of 22 December 1986;

2. Orders the Portuguese Republic to pay the costs;

3. Orders the Republic of Finland to bear its own costs.

(¹) OJ C 112 of 10.05.2003.

JUDGMENT OF THE COURT

(Second Chamber)

of 27 January 2005

in Case C-188/03 (reference for a preliminary ruling from the Arbeitsgericht Berlin): Irmtraud Junk v Wolfgang Kühnel (¹)

(Directive 98/59/EC — Collective redundancies — Consultation with workers' representatives — Notification to the competent public authority — Concept of 'redundancy' — Time at which redundancy takes effect)

(2005/C 82/06)

(Language of the case: German)

In Case C-188/03, reference for a preliminary ruling under Article 234 EC from the Arbeitsgericht (Labour Court) Berlin (Germany), made by decision of 30 April 2003, received at the Court on 7 May 2003, in the proceedings pending before that court between Irmtraud Junk and Wolfgang Kühnel – the Court (Second Chamber), composed of C.W.A. Timmermans, President of the Chamber, R. Silva de Lapuerta, C. Gulmann (Rapporteur), P. Kūris and G. Arestis, Judges; A. Tizzano, Advocate General; M.-F. Contet, Principal Administrator, for the Registrar, gave a judgment on 27 January 2005, the operative part of which is as follows:

- Articles 2 to 4 of Council Directive 98/59/EC of 20 July 1998 on the approximation of the laws of the Member States relating to collective redundancies must be construed as meaning that the event constituting redundancy consists in the declaration by an employer of his intention to terminate the contract of employment.
- An employer is entitled to carry out collective redundancies after the conclusion of the consultation procedure provided for in Article 2 of Directive 98/59 and after notification of the projected collective redundancies as provided for in Articles 3 and 4 of that directive.

(¹) OJ C 213 of 06.09.2003.