

## JUDGMENT OF THE COURT

(Second Chamber)

of 21 April 2005

in Case C-140/03 **Commission of the European Communities v Hellenic Republic** <sup>(1)</sup>

*(Failure by a Member State to fulfil obligations — Articles 43 EC and 48 EC — Opticians — Conditions of establishment — Establishment and operation of opticians' shops — Restrictions — Justification — Principle of proportionality)*

(2005/C 143/07)

(Language of the case: Greek)

In Case C-140/03 **Commission of the European Communities** (Agent: M. Patakia) v **Hellenic Republic** (Agent: E. Skandalou) — action under Article 226 EC for failure to fulfil obligations, brought on 27 March 2003 — 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; D. Ruiz-Jarabo Colomer, Advocate General; L. Hewlett, Principal Administrator, for the Registrar, gave a judgment on 21 April 2005, in which it:

1. Declares that by enacting and maintaining in force Law No 971/79 on the exercise of the profession of optician and on shops for the sale of optical articles, which does not permit a qualified optician as a natural person to operate more than one optician's shop, the Hellenic Republic has failed to fulfil its obligations under Article 43 EC;
2. Declares that by enacting and maintaining in force Law No 971/79 and Law No 2646/98 on the development of a national social security system and other provisions, under which the establishment by a legal person of an optician's shop in Greece is subject to the following conditions:
  - authorisation for the establishment and operation of the optician's shop must have been granted to a recognised optician who is a natural person, the person holding the authorisation to operate the shop must hold at least 50 % of the company's share capital and must participate at least to that extent in the profits and losses of the company, and the company must be in the form of a collective or limited partnership, and
  - the optician in question may participate at most in one other company owning an optician's shop, subject to the condition that the authorisation for the establishment and operation of that shop is in the name of another authorised optician,

the Hellenic Republic has failed to fulfil its obligations under Articles 43 EC and 48 EC;

3. Orders the Hellenic Republic to pay the costs.

<sup>(1)</sup> OJ C 135 of 07.06.2003.

## JUDGMENT OF THE COURT

(Sixth Chamber)

of 14 April 2005

in Case C-163/03: **Commission of the European Communities v Hellenic Republic** <sup>(1)</sup>

*(Failure of a Member State to fulfil obligations — Directive 80/68/EEC — Protection of groundwater against pollution caused by certain dangerous substances — Articles 3, 4 and 5 — Directive 91/689/EEC — Hazardous waste — Article 2(1) and Article 6(1))*

(2005/C 143/08)

(Language of the case: Greek)

In Case C-163/03 **Commission of the European Communities** (Agents: G. Valero Jordana and M. Konstantinidis) v **Hellenic Republic** (Agent: E. Skandalou) — action under Article 226 EC for failure to fulfil obligations, brought on 8 April 2003 — the Court (Sixth Chamber), composed of A. Borg Barthet, President of the Chamber, U. Löhmus and A. Ó Caoimh (Rapporteur), Judges; P. Léger, Advocate General; R. Grass, Registrar, gave a judgment on 14 April 2005, in which it:

1. Declares that, having failed, as regards the region of Thriassion Pedion:
  - to adopt the measures necessary to prevent the introduction into groundwater of substances in list I of Council Directive 80/68/EEC of 17 December 1979 on the protection of groundwater against pollution caused by certain dangerous substances, and to limit the introduction into groundwater of substances in list II of that directive so as to avoid pollution of that water by those substances,
  - to subject to prior investigation any disposal or tipping for the purpose of disposal of the substances in list I of that directive which might lead to indirect discharge, and
  - to subject to prior investigation all direct discharge of substances in list II of Directive 80/68 and the disposal or tipping for the purpose of disposal of those substances which might lead to indirect discharge,