

— a prior authorisation procedure to personal imports, not effected by personal transport, of homeopathic medicinal products lawfully prescribed in France and registered in a Member State pursuant to Council Directive 92/73/EEC of 22 September 1992 widening the scope of Directives 65/65/EEC and 75/319/EEC on the approximation of provisions laid down by law, regulation or administrative action relating to medicinal products and laying down additional provisions on homeopathic medicinal products; and

— a disproportionate prior authorisation procedure to personal imports, not effected by personal transport, of medicinal products lawfully prescribed in France and not authorised in that Member State but only in the Member State where they are purchased,

the French Republic has failed to fulfil its obligations under Article 28 EC;

2. Orders the French Republic to pay the costs.

(<sup>1</sup>) OJ C 158 of 05.07.2003.

## JUDGMENT OF THE COURT

(Grand Chamber)

of 24 May 2005

**in Case C-244/03: French Republic v European Parliament and Council of the European Union** (<sup>1</sup>)

**(Cosmetic products — Testing on animals — Directive 2003/15/EC — Partial annulment — Article 1(2) — Non-severability — Inadmissibility)**

(2005/C 182/11)

(Language of the case: French)

In Case C-244/03: **French Republic** (Agents: F. Alabrune, C. Lemaire and G. de Bergues, and subsequently the latter, J. L. Florent and D. Petrusch) v **European Parliament** (Agents: J.L. Rufas Quintana and M. Moore, and subsequently the latter and K. Bradley) and **Council of the European Union** (Agents: J.-P. Jacqué and M.C. Giorgi Fort) — Action for annulment under Article 230 EC, brought on 3 June 2003 — the Court (Grand Chamber), composed of V. Skouris, President, P. Jann and C.W.A. Timmermans, Presidents of Chambers, C. Gulmann, A. La Pergola, J.-P. Puissochet, R. Schintgen, K. Schiemann (Rapporteur), J. Makarczyk, P. Kūris, U. Lōhmus, E. Levits and A. Ó Caoimh, Judges; L.A. Geelhoed, Advocate General; K. Sztranc, Administrator, for the Registrar, gave a judgment on 24 May 2005, in which it:

1. Dismisses the action;

2. Orders the French Republic to pay the costs.

(<sup>1</sup>) OJ C 171 of 19.07.2003.

## JUDGMENT OF THE COURT

(First Chamber)

of 2 June 2005

**in Case C-266/03: Commission of the European Communities v Grand Duchy of Luxembourg** (<sup>1</sup>)

**(Failure of a Member State to fulfil its obligations — Negotiation, conclusion, ratification and implementation of bilateral agreements by a Member State — Transport of goods or passengers by inland waterway — External competence of the Community — Article 10 EC — Regulations (EEC) No 3921/91 and (EC) No 1356/96)**

(2005/C 182/12)

(Language of the case: French)

In Case C-266/03: Commission of the European Communities (Agents: C. Schmidt and W. Wils) v Grand Duchy of Luxembourg (Agent: S. Schreiner) — action under Article 226 EC for failure to fulfil obligations, brought on 18 June 2003 — the Court (First Chamber), composed of P. Jann, President of the Chamber, R. Silva de Lapuerta (Rapporteur), K. Lenaerts, S. von Bahr and K. Schiemann, Judges; P. Léger, Advocate General; R. Grass, Registrar, gave a judgment on 2 June 2005, in which it:

1. Declares that, by negotiating, concluding, ratifying and arranging for the entry into force of

— the agreement between the Government of the Grand Duchy of Luxembourg and the Government of the Czech and Slovak Federative Republic on inland waterway transport, signed in Luxembourg on 30 December 1992;

— the agreement between the Government of the Grand Duchy of Luxembourg and the Government of Romania on inland waterway transport, signed in Bucharest on 10 November 1993; and

— the agreement between the Government of the Grand Duchy of Luxembourg and the Government of the Republic of Poland on inland waterway transport, signed in Luxembourg on 9 March 1994,

without having cooperated or consulted with the Commission, the Grand Duchy of Luxembourg has failed to fulfil its obligations under Article 10 EC;

2. Dismisses the remainder of the action;
3. Orders the Commission of the European Communities and the Grand Duchy of Luxembourg to bear their own costs.

(<sup>1</sup>) OJ C 200 of 23.08.2003.

## JUDGMENT OF THE COURT

(Second Chamber)

of 12 May 2005

**in Case C-278/03: Commission of the European Communities v Italian Republic (<sup>1</sup>)**

**(Failure of a Member State to fulfil obligations — Freedom of movement for workers — Competition for the recruitment of teaching staff in Italian State schools — Failure to take account of or insufficient account taken of professional experience acquired in other Member States — Article 39 EC — Article 3 of Regulation (EEC) No 1612/68)**

(2005/C 182/13)

(Language of the case: Italian)

In Case C-278/03: Commission of the European Communities (Agent: M.-J. Jonczyk) v Italian Republic (Agent: I.M. Braguglia, assisted by G. De Bellis, avvocato dello Stato) — action under Article 226 EC for failure to fulfil obligations, brought on 26 June 2003 — the Court (Second Chamber), composed of C.W.A. Timmermans (Rapporteur), President of the Chamber, C. Gulmann, R. Schintgen, G. Arestis and J. Klučka., Judges; C. Stix-Hackl, Advocate General; R. Grass, Registrar, gave a judgment on 12 May 2005, in which it:

1. Declares that the Italian Republic has failed to fulfil its obligations under Article 39 EC and Article 3(1) of Regulation (EEC) No 1612/68 of the Council of 15 October 1968 on freedom of movement for workers within the Community inasmuch as for the purposes of participation by Community nationals in competitions to recruit teaching staff in Italian State schools professional teaching experience acquired by those nationals is not taken into account, or at least not taken into account in the same way, depending on whether the teaching was carried out in Italy or in other Member States;

2. Orders the Italian Republic to pay the costs.

(<sup>1</sup>) OJ C 213 of 6.9.2003.

## JUDGMENT OF THE COURT

(First Chamber)

of 26 May 2005

**in Case C-283/03: Reference for a preliminary ruling from the College van Beroep voor het bedrijfsleven A.H. Kuipers v Productschap Zuivel (<sup>1</sup>)**

**(Common organisation of the markets — Milk and milk products — Regulation (EEC) No 804/68 — National scheme under which dairies withhold deductions from the price payable to dairy farmers or pay price supplements to them according to the quality of the milk supplied — Incompatibility)**

(2005/C 182/14)

(Language of the case: Dutch)

In Case C-283/03: reference for a preliminary ruling under Article 234 EC from the College van Beroep voor het bedrijfsleven (Administrative Court for Trade and Industry) (Netherlands), made by decision of 27 June 2003, received at the Court on 30 June 2003, in the proceedings between A.H. Kuipers and Productschap Zuivel — the Court (First Chamber), composed of P. Jann, President of the Chamber, K. Lenaerts, J.N. Cunha Rodrigues, K. Schiemann (Rapporteur) and M. Ilešič, Judges; J. Kokott, Advocate General; M.-F. Contet, Principal Administrator, for the Registrar, gave a judgment on 26 May 2005, the operative part of which is as follows:

*The common pricing system which forms the basis of the common organisation of the market in milk and milk products instituted by Regulation No 804/68 of the Council of 27 June 1968 on the common organisation of the market in milk and milk products, as amended by Council Regulation (EC) No 1538/95 of 29 June 1995, prohibits Member States from unilaterally adopting provisions affecting the machinery of price formation at the production and marketing stages established under the common organisation. That is the case with regard to a system such as that at issue in the main proceedings, which, whatever its alleged or stated objective may be, institutes a mechanism under which:*

- on the one hand, dairies are required to withhold deductions from the price of milk delivered to them when that milk does not meet certain quality criteria and,