

## I

(Information)

## COURT OF JUSTICE

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## JUDGMENT OF THE COURT

(Third Chamber)

of 8 September 2005

in Case C-416/02: Commission of the European Communities v Kingdom of Spain <sup>(1)</sup>

*(Failure of a Member State to fulfil obligations — Directives 75/442/EEC and 91/156/EEC — Meaning of ‘waste’ — Directives 85/337/EEC and 97/11/EC — Assessment of the effects of certain public and private projects on the environment — Directive 80/68/EEC — Protection of groundwater against pollution caused by certain dangerous substances — Directive 91/271/EEC — Urban waste-water treatment — Directive 91/676/EEC — Protection of waters against pollution caused by nitrates from agricultural sources — Pollution caused by a pig farm)*

(2005/C 271/01)

(Language of the case: Spanish)

In Case C-416/02: Action under Article 226 EC for failure to fulfil obligations, brought on 19 November 2002, Commission of the European Communities (Agent: G. Valero Jordana) supported by United Kingdom of Great Britain and Northern Ireland (Agents: K. Manji, and subsequently C. White, instructing D. Wyatt QC) v Kingdom of Spain (Agent: N. Díaz Abad) — the Court (Third Chamber), composed of A. Rosas, President of the Chamber, J.-P. Puissochet (Rapporteur), S. von Bahr, U. Löhmus and A. Ó Caoimh, Judges; C. Stix-Hackl, Advocate General; M. Ferreira, Principal Administrator, for the Registrar, gave a judgment on 8 September 2005, in which it:

1. Declares that, by failing to ensure that urban waste water from the agglomeration of Vera is subjected to such treatment as is required by Article 5(2) of Council Directive 91/271/EEC of 21 May 1991 concerning urban waste-water treatment, that is to say treatment which is more stringent than that described in Article 4 of that directive, and by failing to designate the Rambla de Mojácar as a vulnerable zone contrary to Article 3(1), (2) and (4) of Council Directive 91/676/EEC of 12 December 1991 concerning the protection of waters against pollution caused by

nitrates from agricultural sources, the Kingdom of Spain has failed to fulfil its obligations under those directives;

2. Dismisses the remainder of the action;
3. Orders the Kingdom of Spain to bear two thirds of all the costs and the Commission of the European Communities to bear the other third;
4. Orders the United Kingdom of Great Britain and Northern Ireland to bear its own costs.

<sup>(1)</sup> OJ C 31 of 08. 02. 2003.

## JUDGMENT OF THE COURT

(Third Chamber)

of 15 September 2005

in Case C-37/03 P: BioID AG v Office for Harmonisation in the Internal Market (Trade Marks and Designs) (OHIM) <sup>(1)</sup>

*(Appeal — Community trade mark — Article 7(1)(b) of Regulation (EC) No 40/94 — Word and figurative mark — BioID — Absolute ground for refusal to register — Trade mark devoid of any distinctive character)*

(2005/C 271/02)

(Language of the case: German)

In Case C-37/03 P: appeal under Article 56 of the Statute of the Court of Justice lodged at the Court on 3 February 2003 by BioID AG, established in Berlin (Germany), in judicial liquidation, (Rechtsanwalt: A. Nordemann), the other party to the proceedings being the Office for Harmonisation in the Internal Market (Trade Marks and Designs) (OHIM) (Agents: A. von

Mühlendahl and G. Schneider,) — the Court (Third Chamber), composed of A. Rosas, President of the Chamber, J. P. Puissechet, S. von Bahr, J. Malenovský and A. Ó Caoimh (Rapporteur), Judges; P. Léger, Advocate General; M. Ferreira, Principal Administrator, for the Registrar, gave a judgment on 15 September 2005, in which it:

1. Sets aside the judgment of the Court of First Instance of the European Communities of 5 December 2002 in Case T-91/01 *BioID v OHIM (BioID)* [2002] ECR II-5159;
2. Dismisses the action against the decision of the Second Board of Appeal of the Office for Harmonisation in the Internal Market (Trade Marks and Designs) of 20 February 2001;
3. Orders the appellant to pay the costs of the proceedings at first instance and on appeal.

(<sup>1</sup>) OJ 70, 22.03.2003.

## JUDGMENT OF THE COURT

(Third Chamber)

of 8 September 2005

in Case C-121/03: Commission of the European Communities v Kingdom of Spain (<sup>1</sup>)

*(Failure of a Member State to fulfil obligations — Directives 75/442/EEC and 91/156/EEC — Meaning of ‘waste’ — Directives 85/337/EEC and 97/11/EC — Assessment of the effects of certain public and private projects on the environment — Directive 80/68/EEC — Protection of groundwater against pollution caused by certain dangerous substances — Directive 80/778/EEC — Quality of water intended for human consumption)*

(2005/C 271/03)

(Language of the case: Spanish)

In Case C-121/03: Action under Article 226 EC for failure to fulfil obligations, brought on 19 March 2003, by Commission of the European Communities (Agent: G. Valero Jordana) v Kingdom of Spain (Agent: N. Díaz Abad) — the Court (Third Chamber), composed of A. Rosas, President of the Chamber, J.P. Puissechet (Rapporteur), S. von Bahr, U. Lohmus and A. Ó Caoimh, Judges; C. Stix-Hackl, Advocate General; M. Ferreira, Principal Administrator, gave a judgment on 8 September 2005, in which it:

1. Declares that, by failing to carry out, prior to the construction of the pig farms in the Baix Ter area or their alteration, an impact assessment, contrary to the requirements of Articles 2 and 4(2) of Council Directive 85/337/EEC of 27 June 1985 on the assessment of the effects of certain public and private projects on the environment, and by exceeding, in various public water distribution networks in the Baix Ter area, the maximum admissible concentration for the nitrates parameter laid down in point 20 of Annex IC to Council Directive 80/778/EEC of 15 July 1980 relating to the quality of water intended for human consumption, contrary to Article 7(6) of that directive, the Kingdom of Spain has failed to fulfil its obligations under those directives;
2. Dismisses the remainder of the action;
3. Orders the Kingdom of Spain to pay two thirds of all the costs and the Commission of the European Communities to bear the other third.

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

## JUDGMENT OF THE COURT

(Second Chamber)

of 26 May 2005

in Case C-132/03 Reference for a preliminary ruling from the Consiglio di Stato in Ministero della Salute v Coordinamento delle associazioni per la difesa dell'ambiente e dei diritti degli utenti e dei consumatori (Codacons), Federconsumatori (<sup>1</sup>)

*(Regulation (EC) No 1139/98 — Article 2(2)(b) — Additional labelling requirement for foodstuffs — Compulsory particulars concerning the presence of material derived from genetically modified organisms (GMOs) — Genetically modified soya beans and maize — Exemption from the requirement in the case of adventitious presence not exceeding a particular level — Foodstuffs intended for particular nutritional use — Infants and young children — Whether derogation applies — Precautionary principle)*

(2005/C 271/04)

(Language of the case: Italian)

In Case C-132/03: reference for a preliminary ruling under Article 234 EC from the Consiglio di Stato (Italy), made by decision of 25 March 2003, received at the Court on 28 January 2003 in the proceedings between Ministero della