

**JUDGMENT OF THE COURT**

(First Chamber)

of 27 October 2005

**in Case C-437/03: Commission of the European Communities v Republic of Austria** <sup>(1)</sup>

**(Failure of a Member State to fulfil obligations — Directives 78/686/EEC and 78/687/EEC — Dental practitioners)**

(2005/C 330/07)

(Language of the case: German)

In Case C-437/03, action under Article 226 EC for failure to fulfil obligations, brought on 16 October 2003, Commission of the European Communities (Agents: C. Schmidt, C. Tufvesson and A. Manville) v Republic of Austria (Agent: E. Riedl) — the Court (First Chamber), composed of P. Jann, President of the Chamber, K. Schiemann (Rapporteur), N. Colneric, K. Lenaerts and E. Juhász, Judges; A. Tizzano, Advocate General; R. Grass, Registrar, gave a judgment on 27 October 2005, in which it:

1. Declares that, by allowing dentists ('Dentisten') under Paragraphs 4(3) and 6 of the Law on Dentists (Dentistengesetz)

— to engage in their occupation under the title 'Zahnarzt' (dental practitioner) or 'Zahnarzt (Dentist)' (dental practitioner (dentist)), and

— to make use of the exception laid down in Article 19b of Council Directive 78/686/EEC of 25 July 1978 concerning the mutual recognition of diplomas, certificates and other evidence of the formal qualifications of practitioners of dentistry, including measures to facilitate the effective exercise of the right of establishment and freedom to provide services, as amended by Directive 2001/19/EC of the European Parliament and of the Council of 14 May 2001,

although they do not meet the minimum requirements under Article 1 of Council Directive 78/687/EEC of 25 July 1978 concerning the coordination of provisions laid down by law, regulation or administrative action in respect of the activities of dental practitioners, as amended by Directive 2001/19, to be covered by the rules under those directives,

the Republic of Austria has failed to fulfil its obligations under Articles 1 and 19b of Directive 78/686 and Article 1 of Directive 78/687;

2. Dismisses the remainder of the application;

3. Orders the Republic of Austria and the Commission of the European Communities to bear their own costs.

<sup>(1)</sup> OJ C 304 of 13. 12. 2003.

**JUDGMENT OF THE COURT**

(Second Chamber)

of 27 October 2005

**in Case C-525/03: Commission of the European Communities v Italian Republic** <sup>(1)</sup>

**(Failure of a Member State to fulfil obligations — National rules ceasing to have any legal effect before the expiry of the period laid down in the reasoned opinion — Inadmissibility of the action)**

(2005/C 330/08)

(Language of the case: Italian)

In Case C-525/03 **Commission of the European Communities** (Agents: X. Lewis, C. Loggi and K. Wiedner) v **Italian Republic** (Agent: I. M. Braguglia and G. Fiengo, lawyer) — action for failure to fulfil obligations under Article 226 EC, brought on 16 December 2003 — the Court (Second Chamber), composed of C. W. A. Timmermans, President of the Chamber, J. Makarczyk (Rapporteur), C. Gulmann, R. Schintgen and J. Klučka, Judges; F. G. Jacobs, Advocate General; L. Hewlett, Principal Administrator for the Registrar, gave a judgment on 27 October 2005, in which it:

1. Dismisses the action as inadmissible;

2. Orders the Commission of the European Communities and the Italian Republic to bear their own costs.

<sup>(1)</sup> OJ C 59 of 06.03.2004