

## JUDGMENT OF THE COURT

(Second Chamber)

of 10 January 2006

**in Case C-94/03: Commission of the European Communities v Council of the European Union** <sup>(1)</sup>

*(Action for annulment — Council Decision 2003/106/EC concerning the approval of the Rotterdam Convention — Prior Informed Consent Procedure — Hazardous chemicals and pesticides in international trade — Choice of legal basis — Articles 133 EC and 175 EC)*

(2006/C 48/03)

*(Language of the case: English)*

In Case C-94/03, Commission of the European Communities (Agents: G. zur Hausen, L. Ström van Lier and E. Righini) v Council of the European Union (Agents: B. Hoff-Nielsen, M. Sims-Robertson, and K. Michael), supported by French Republic (Agents: G. de Bergues, F. Alabrune and E. Puisais), Kingdom of the Netherlands (Agents: H.G. Sevenster, S. Terstal and N.A.J. Bel), Republic of Austria (Agent: E. Riedl), Republic of Finland (Agent: T. Pynnä), United Kingdom of Great Britain and Northern Ireland (Agent: R. Caudwell, and A. Dashwood, Barrister) European Parliament (Agents: C. Pennera, M. Moore, and K. Bradley) — Action for annulment under Article 230 EC, brought on 28 February 2003 — the Court (Second Chamber), composed of C.W.A. Timmermans (Rapporteur), President of the Chamber, J. Makarczyk, C. Gulmann, P. Kūris and J. Klučka, Judges; J. Kokott, Advocate General; L. Hewlett, Principal Administrator, for the Registrar, gave a judgment on 10 January 2006, in which it:

1. Annuls Council Decision 2003/106/EC of 19 December 2002 concerning the approval, on behalf of the European Community, of the Rotterdam Convention on the Prior Informed Consent Procedure for certain hazardous chemicals and pesticides in international trade;
2. Orders the Commission of the European Communities and the Council of the European Union to bear their own costs;
3. Orders the French Republic, the Kingdom of the Netherlands, the Republic of Austria, the Republic of Finland, the United Kingdom of Great Britain and Northern Ireland and the European Parliament to bear their own costs.

<sup>(1)</sup> OJ C 101 of 26.04.2003.

## JUDGMENT OF THE COURT

(Second Chamber)

of 10 January 2006

**in Case C-98/03: Commission of the European Communities v Federal Republic of Germany** <sup>(1)</sup>

*(Failure of a Member State to fulfil obligations — Directive 92/43/EEC — Conservation of natural habitats — Wild fauna and flora — Assessment of the implications of certain projects on a protected site — Protection of species)*

(2006/C 48/04)

*(Language of the case: German)*

In Case C-98/03 Commission of the European Communities (Agent: U. Wölker) v Federal Republic of Germany (Agents: M. Lumma and C. Schulze-Bahr) — action under Article 226 EC for failure to fulfil obligations, brought on 28 February 2003 — the Court (Second Chamber), composed of C.W.A. Timmermans, President of the Chamber, C. Gulmann (Rapporteur), R. Silva de Lapuerta, P. Kūris and G. Arestis, Judges; A. Tizzano, Advocate General; M. Ferreira, Principal Administrator, for the Registrar, gave a judgment on 10 January 2006, the operative part of which is as follows:

1. By failing, in respect of certain projects carried out outside special areas of conservation within the meaning of Article 4(1) of Council Directive 92/43/EEC of 21 May 1992 on the conservation of natural habitats and of wild fauna and flora, to require compulsory assessment of the impact on the site, in accordance with Article 6(3) and (4) of that directive, whether or not such projects are capable of significantly affecting a special area of conservation;
  - by authorising emissions in a special area of conservation, irrespective of whether they are likely to have a significant effect on that area;
  - by derogating from the scope of the provisions concerning the protection of species in the case of certain non-deliberate effects on protected animals;
  - by failing to ensure compliance with the criteria for derogation set out in Article 16 of Directive 92/43 in the case of certain activities compatible with the conservation of the area;
  - by retaining provisions on the application of pesticides which do not take sufficient account of the protection of species;
  - by failing to ensure that legislation on fishing contains adequate bans on catches,

the Federal Republic of Germany has failed to fulfil its obligations under Article 6(3) and Articles 12, 13 and 16 of Directive 92/43.

2. Orders the Federal Republic of Germany to pay the costs.

(<sup>1</sup>) OJ C 146 of 21.06.2003.

3. Orders the Commission of European Communities, the European Parliament and the Council of the European Union to bear their own costs;

4. Orders the French Republic, the Republic of Finland and the United Kingdom of Great Britain and Northern Ireland to bear their own costs.

(<sup>1</sup>) OJ C 146 of 21.06.2003.

## JUDGMENT OF THE COURT

(Second Chamber)

of 10 January 2006

**in Case C-178/03: Commission of the European Communities v European Parliament and Council of the European Union** (<sup>1</sup>)

*(Action for annulment — Regulation (EC) No 304/2003 of the European Parliament and of the Council of 28 January 2003 concerning the export and import of dangerous chemicals — Choice of legal basis — Articles 133 EC and 175 EC)*

(2006/C 48/05)

(Language of the case: English)

In Case C-178/03, action for annulment under Article 230 EC, brought on 24 April 2003, Commission of the European Communities (Agent: G.zur Hausen, L. Strom van Lier and E. Righini) v European Parliament (Agents: C. Pennera and M. Moore and K. Bradley) and Council of the European Union (Agents: B. Hoff-Nielsen and M. Sims-Robertson, and K. Michoel), supported by: French Republic (Agents: G. de Bergues, F. Alabrune and E. Puisais), Republic of Finland (Agent: T. Pynnä), United Kingdom of Great Britain and Northern Ireland (Agent: R. Caudwell, and A. Dashwood) — the Court (Second Chamber), composed of C.W.A. Timmermans, President of the Chamber, J. Makarczyk, C. Gulmann, P. Kūris and J. Klučka, Judges; J. Kokott, Advocate General; L. Hewlett, Principal Administrator, for the Registrar, gave a judgment on 10 January 2006, in which it:

1. Annuls Regulation (EC) No 304/2003 of the European Parliament and of the Council of 28 January 2003 concerning the export and import of dangerous chemicals;
2. Maintains the effects of that regulation until the adoption, within a reasonable period, of a new regulation founded on appropriate legal bases;

## JUDGMENT OF THE COURT

(Second Chamber)

of 15 December 2005

**in Case C-344/03: Commission of the European Communities v Republic of Finland** (<sup>1</sup>)

*(Directive 79/409/EEC — Conservation of wild birds — Spring hunting of certain aquatic birds)*

(2006/C 48/06)

(Language of the case: Finnish)

In Case C-344/03, Commission of the European Communities (Agents: G. Valero Jordana and P. Aalto) v Republic of Finland (Agent: T. Pynnä) — action under Article 226 EC for failure to fulfil obligations, brought on 1 August 2003 — the Court (Second Chamber), composed of C.W.A. Timmermans, President of the Chamber, C. Gulmann (Rapporteur), R. Schintgen, G. Arestis and J. Klučka, Judges; D. Ruiz-Jarabo Colomer, Advocate General; K. Sztranc, Administrator, for the Registrar, gave a judgment on 15 December 2005, in which it:

1. Declares that, since it has failed to establish that, in the context of the spring hunting of aquatic birds in mainland Finland and the province of Åland:
  - the condition laid down in Article 9(1)(c) of Council Directive 79/409/EEC of 2 April 1979 on the conservation of wild birds, as amended by the Act concerning the conditions of accession of the Republic of Austria, the Republic of Finland and the Kingdom of Sweden and the adjustments to the Treaties on which the European Union is founded, for the purpose of a derogation, that there be no satisfactory solution other than spring hunting, was fulfilled in respect of eider, golden-eye, red-breasted merganser, goosander, velvet scoter and tufted duck; and that