

**Judgment of the Court (Third Chamber) of 16 March 2006
— Commission of the European Communities v Kingdom
of Spain**

(Case C-332/04) ⁽¹⁾

(Failure of a Member State to fulfil its obligations — Directive 85/337/EEC as amended by Directive 97/11/EC — Assessment of the effects of projects on the environment — Inter-action between factors likely to be directly and indirectly affected — Obligation to publish the impact statement — Assessment limited to urban development projects outside urban areas — Construction project for a leisure complex at Paterna)

(2006/C 131/29)

Language of the case: Spanish

Parties

Applicant: Commission of the European Communities (represented by: G. Valero Jordana and F. Simonetti, acting as Agents)

Defendant: Kingdom of Spain (represented by: M. Muñoz Perez, acting as Agent)

Re:

Failure of a Member State to fulfil its obligations — Incomplete/incorrect transposition of Arts. 3, 9(1) and Paragraph 10(b) of Annex II to Council Directive 85/337/EEC of 27 June 1985 on the assessment of the effects of certain public and private projects on the environment (OJ 1985 L 175, p. 40), as amended by Council Directive 97/11/EC of 3 March 1997 (OJ 1997 L 73, p. 5) — Failure to apply the transitional scheme established by Article 3 of Directive 97/11/EC — Failure to have submitted a construction project for a leisure complex at Paterna (Valencia) for an assessment

Operative part of the judgment

The Court:

1. Declares that, by failing to fully transpose Article 3 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, as amended by Council Directive 97/11, by failing to transpose Article 9(1) of Directive 85/337, as amended by Directive 97/11, by failing to comply with the transitional scheme provided for by Article 3 of Directive 97/11, by failing to correctly transpose the combined provisions of Paragraph 10(b) of Annex II and Articles 2(1) and 4(2) of Directive 85/337, as amended by Directive 97/11, and by failing to submit the construction project for a leisure complex at Paterna to the procedure for the assessment of the effects on the environment and, consequently, by failing to apply the provisions of Articles 2(1), 3, 4(2), 8 and 9

of Directive 85/337, as amended by Directive 97/11, the Kingdom of Spain has failed to fulfil its obligations under that directive;

2. The Kingdom of Spain is ordered to pay the costs.

⁽¹⁾ OJ C 262 of 23.10.2004.

**Judgment of the Court (First Chamber) of 9 March 2006
(reference for a preliminary ruling from the Audiencia
Provincial de Barcelona) — Matratzen Concord AG v
Hukla Germany SA**

(Case C-421/04) ⁽¹⁾

(Reference for a preliminary ruling — Article 3(1)(b) and (c) of Directive 89/104/EEC — Grounds for refusal to register — Articles 28 EC and 30 EC — Free movement of goods — Measure having equivalent effect to a quantitative restriction — Justification — Protection of industrial and commercial property — National word mark registered in a Member State — Trade mark consisting of a term borrowed from the language of another Member State in which it is devoid of distinctive character and/or descriptive of the goods in respect of which the trade mark was registered)

(2006/C 131/30)

Language of the case: Spanish

Referring court

Audiencia Provincial de Barcelona

Parties to the main proceedings

Applicant: Matratzen Concord AG

Defendant: Hukla Germany SA

Re:

Reference for a preliminary ruling — Audiencia Provincial de Barcelona — Interpretation of Article 30 EC — Protection of industrial and commercial property — Disguised restriction in trade between Member States resulting from a national word mark composed of a word which, in the language of another Member State, is descriptive of the products concerned ('matratzen')