

**Judgment of the Court (Second Chamber) of 21 June 2007
— Commission of the European Communities v Italian Republic**

(Case C-173/05) ⁽¹⁾

(Failure of a Member State to fulfil obligations — Articles 23 EC, 25 EC and 133 EC — EEC-Algeria Cooperation Agreement — Environmental protection tax on gas pipelines installed in the Sicilian Region — Charge having equivalent effect to a customs duty)

(2007/C 183/05)

Language of the case: Italian

Parties

Applicant: Commission of the European Communities (represented by: E. Traversa and J. Hottiaux, Agents)

Defendant: Italian Republic (represented by: I.M. Braguglia, Agent, and A. Cingolo, avvocato dello Stato)

Re:

Failure of a Member State to fulfil obligations — Infringement of Articles 23 EC, 25 EC, 26 EC and 133 EC and of Articles 4 and 9 of the Cooperation Agreement between the European Economic Community and the People's Democratic Republic of Algeria signed on 26 April 1976 and approved by Council Regulation (EEC) No 2210/78 of 26 September 1978 (OJ 1978 L 263, p. 1) — National law imposing an environmental protection tax ('tributo ambientale') on gas pipelines installed in the Sicilian Region

Operative part of the judgment

The Court:

1. Declares that, by introducing an environmental tax on methane gas from Algeria, the Italian Republic has failed to fulfil its obligations under Articles 23 EC, 25 EC and 133 EC and under Article 9 of the Cooperation Agreement between the European Economic Community and the People's Democratic Republic of Algeria, signed in Algiers on 26 April 1976, and approved on behalf of the Community by Council Regulation (EEC) No 2210/78 of 26 September 1978;
2. Dismisses the remainder of the action;
3. Orders the Italian Republic to pay the costs.

⁽¹⁾ OJ C 155, 25.6.2005.

**Judgment of the Court (Third Chamber) of 14 June 2007
(reference for a preliminary ruling from the Oberster Patent- und Markensenat, Austria) — Armin Häupl v Lidl Stiftung & Co. KG**

(Case C-246/05) ⁽¹⁾

(Trade mark law — Article 10(1) of Directive 89/104/EEC — Absence of genuine use of a trade mark — Concept of 'date of the completion of the registration procedure')

(2007/C 183/06)

Language of the case: German

Referring court

Oberster Patent- und Markensenat

Parties to the main proceedings

Applicant: Armin Häupl

Defendant: Lidl Stiftung & Co. KG

Re:

Reference for a preliminary ruling — Oberster Patent- und Markensenat — Interpretation of Articles 10(1) and 12(1) of Directive 89/104/EEC: First Council Directive of 21 December 1988 to approximate the laws of the Member States relating to trade marks (OJ 1989 L 40, p. 1) — Absence of genuine use of a mark — Reasons outside the control of the undertaking preventing it from opening supermarkets on the national territory, whereas its usual strategy is to market goods bearing that mark only in its own supermarkets — Concept of the date on which the registration procedure finishes

Operative part of the judgment

- 1) The 'date of the completion of the registration procedure' within the meaning of Article 10(1) of First Council Directive 89/104/EEC of 21 December 1988 to approximate the laws of the Member States relating to trade marks must be determined in each Member State in accordance with the procedural rules on registration in force in that State;

2) Article 12(1) of Directive 89/104 must be interpreted as meaning that obstacles having a direct relationship with a trade mark which make its use impossible or unreasonable and which are independent of the will of the proprietor of that mark constitute 'proper reasons for non-use' of the mark. It is for the national court or tribunal to assess the facts in the main proceedings in the light of that guidance.

(¹) OJ C 193, 16.8.2006.

**Judgment of the Court (First Chamber) of 21 June 2007
(reference for a preliminary ruling from the Rechtbank te Rotterdam, Netherlands) — Criminal proceedings against
Omni Metal Service**

(Case C-259/05) (¹)

(Regulation (EEC) No 259/93 — Waste — Cables composed of copper and PVC — Export to China for purposes of recovery — Heading GC 020 — Mixed waste — Combination of two materials mentioned in the green list of wastes — Such mixed waste not included on the green list — Consequences)

(2007/C 183/07)

Language of the case: Dutch

Referring court

Rechtbank te Rotterdam

Party in the criminal prosecution in the main proceedings

Omni Metal Service

Re:

Reference for a preliminary ruling — Rechtbank Rotterdam — Interpretation of Council Regulation (EEC) No 259/93 of 1 February 1993 on the supervision and control of shipments of waste within, into and out of the European Community (OJ 1993 L 30, p. 1) — Whether cable scrap with a diameter of 15 cm and composed of different materials may be classified as electronic scrap within the meaning of heading GC 020 of the green list in Annex II to that regulation — Whether it is possible to transport such waste without the notification procedure or without the need to transport it separately

Operative part of the judgment

1. Heading GC 020 of the green list of wastes in Annex II to Council Regulation (EEC) No 259/93 of 1 February 1993 on the supervision and control of shipments of waste within, into and out of the European Community, as amended by Commission Regulation (EC) No 2557/2001 of 28 December 2001, is to be interpreted as covering wire cable only if such wire comes from electronic equipment.
2. Regulation No 259/93, as amended by Regulation No 2557/2001, is to be construed in such a way that the fact that composite waste is a combination of two materials both of which are mentioned in the green list of wastes in Annex II to that regulation does not have the effect of making the rules laid down by that regulation concerning the wastes mentioned on that list applicable to such composite waste.

(¹) OJ C 243, 1.10.2005.

**Judgment of the Court (Second Chamber) of 14 June 2007
— Commission of the European Communities v Republic
of Finland**

(Case C-342/05) (¹)

(Failure of a Member State to fulfil its obligations — Directive 92/43/EEC — Conservation of natural habitats — Wild fauna and flora — Wolf hunting)

(2007/C 183/08)

Language of the case: Finnish

Parties

Applicant: Commission of the European Communities (represented by: M. van Beek and I. Koskinen, Agents)

Defendant: Republic of Finland (represented by: E. Bygglin, Agent)

Re:

Failure of a Member State to fulfil its obligations — Infringement of Articles 12(1) and 16(1) of Council Directive 92/43/EEC of 21 May 1992 on the conservation of natural habitats and of wild fauna and flora (OJ 1992 L 206, p. 7) — Hunting of wolves