Judgment of the Court (Fifth Chamber) of 5 October 2006 — Commission v Austria

(Case C-226/05)

Failure of a Member State to fulfil obligations — Directive 96/82/EC — Major-accident hazards involving dangerous substances — Failure to transpose within the period prescribed

Actions for failure to fulfil obligations — Examination of merits by the Court — Situation to be taken into consideration — Situation on expiry of the period laid down in the reasoned opinion (Art. 226 EC) (see para. 7)

Re:

Failure of a Member State to fulfil obligations — Failure fully to transpose Articles 8(2)(b), 11, 12 and 24(1) of Council Directive 96/82/EC of 9 December 1996 on the control of major-accident hazards involving dangerous substances (OJ 1997 L 10, p. 13).

Operative part

The Court:

1. Declares that, by failing to transpose, within the period prescribed:

   — the provisions of Council Directive 96/82/EC of 9 December 1996 on the control of major-accident hazards involving dangerous substances into the national legislation on blasting supplies and explosives and the legislation of the *Land* Salzburg on electricity;

— Article 11 of Directive 96/82 in the *Länder* of Salzburg, Styria and Tirol;

— Article 12 of Directive 96/82 in the *Land* of Upper Austria; and

— Article 8(2)(b) of Directive 96/82 in the *Länder* of Upper Austria, Salzburg and Tirol,

the Republic of Austria has failed to fulfil its obligations under that directive;

2. Orders the Republic of Austria to pay the costs.

Judgment of the Court (Fifth Chamber) of 5 October 2006 — Commission v Italy

(Case C-360/05)

Failure of a Member State to fulfil obligations — Directive 2003/96/EC — Taxation of energy products and electricity — Failure to transpose within the period prescribed

Actions for failure to fulfil obligations — Examination of merits by the Court — Situation to be taken into consideration — Situation on expiry of the period laid down in the reasoned opinion (Art. 226 EC) (see para. 6)