# Judgment of the Court (Fifth Chamber) of 24 March 2011 – Commission v Spain

## (Case C-375/10)

(Failure of a Member State to fulfil obligations — Directive 2007/36/EC — Exercise of certain rights of shareholders in listed companies — Failure to transpose within the period prescribed)

1. *Procedure — Application initiating proceedings — Formal requirements — Identification of the subject-matter of the dispute — Brief summary of the pleas in law on which the application is based — Unambiguous wording of the form of order sought by the applicant (Rules of Procedure of the Court of Justice, Art. 38(1)(c)) (see paras 10-11)*

2. *Actions for failure to fulfil obligations — Examination of the merits by the Court — Situation to be taken into consideration — Situation on expiry of the period laid down in the reasoned opinion (Art. 258 TFEU) (see para. 20)*

3. *Member States — Obligations — Implementation of directives — Failure to fulfil obligations — National system pleaded as justification — Not permissible (Art. 258 TFEU) (see point 21)*

**Re:**

Failure of a Member State to fulfil obligations – Failure to adopt, within the period prescribed, the measures necessary to comply with Directive 2007/36/EC of the European Parliament and of the Council of 11 July 2007 on the exercise of certain rights of shareholders in listed companies (OJ 2007 L 184, p. 17).

**Operative part**

The Court:

1. Declares that, by failing to adopt, within the period prescribed, the laws, regulations and administrative provisions necessary to comply with Directive 2007/36/EC of the European Parliament and of the Council of 11 July 2007

on the exercise of certain rights of shareholders in listed companies, the Kingdom of Spain has failed to fulfil its obligations under Article 15 thereof;

2. Orders the Kingdom of Spain to pay the costs.

**Order of the Court (Eighth Chamber) of 24 March 2011 – Muñoz Arraiza v OHIM**

**(Case C-388/10 P)**

(Appeal — Community trade mark — Regulation (EC) No 40/94 — Articles 8(1)(b), 43(2) and 44(1) — Application for Community word mark RIOJAVINA — Opposition by the proprietor of the earlier Community collective figurative mark RIOJA — Refusal to register — Likelihood of confusion)

1. *Appeals — Grounds — Mistaken assessment of the facts — Inadmissibility — Review by the Court of the assessment of the facts and evidence — Possible only where the clear sense of the evidence has been distorted (Art. 225 EC; Statute of the Court of Justice, Art. 58(1)) (see paras 31-32)*

2. *Appeals — Grounds — Mere repetition of the pleas and arguments put forward before the Court of First Instance — Error of law relied on not identified — Inadmissibility (Art. 225 EC; Statute of the Court of Justice, Art. 51(1); Rules of Procedure of the Court of Justice, Art. 112(1)(c)) (see para. 74)*

**Re:**

Appeal against the judgment of the General Court (Fifth Chamber) of 9 June 2010 in Case T-138/09 *Muñoz Arraiza* v *OHIM – Consejo Regulador de la Denominación*