Operative part

1. The appeal is dismissed;

2. Fred Olsen SA is ordered to pay the costs;

3. The Kingdom of Spain is ordered to bear its own costs.

Judgment of the Court (Second Chamber) of 4 October 2007 — Commission v Italy

(Case C-217/06)

Failure of Member State to fulfil obligations — Public works contracts — Directive 71/305/EEC — Meaning and definition of a public works contract — Failure which has produced all its effects

1. *Actions for failure to fulfil obligations — Infringement terminated before the expiry of the period laid down in the reasoned opinion — Inadmissible (Art. 226 EC) (see para. 21)*

2. *Community law — Principles — Protection of legitimate expectations — Scope (Council Directive 71/305) (see para. 23)*

Re:

FAILURE of Member State to fulfil obligations — Infringement of Articles 3 and 12 of Council Directive 71/305/EEC of 26 July 1971 concerning the coordination of procedures for the award of public works contracts (OJ 1971 L 185, p. 5) — Award,

after private negotiation and without publication of a notice of invitation to tender, of a works contract for the performance of works specified in resolution No 48 of the Municipal Council of Stintino of 14 December 1989, in particular: 'the design and execution of works relating to the technical and structural modernisation, maintenance and completion of the water supply and drainage networks, the road network, and structures and facilities serving the centre of population, the external villages and the tourist zones of the territory of the commune of Stintino, and including the cleaning and decontamination of the coast and tourist centres of that commune'.

Operative part

The Court:

1. Declares that by allowing execution of at least one of the operations entrusted by the commune of Stintino to the company Maresar Soc. Cons arl under the Agreement No 7/91 signed on 2 October 1991 and additional measures subsequently agreed by the same parties, the Italian Republic has failed to fulfil its obligations under Council Directive 71/305/EEC of 26 July 1971 concerning the coordination of procedures for the award of public works contracts, and in particular Articles 3 and 12 thereof;

2. Orders the Italian Republic to pay the costs.

Order of the Court (Eight Chamber) of 4 October 2007 — Finland v Commission

(Case C-457/06 P)

Appeal — Action for annulment — Inadmissibility — Measure not having binding legal effects — European Communities' own resources — Infringement procedure — Article 11 of Regulation (EC, Euratom) No 1150/2000 — Interest for late payment — Negotiations for an agreement on a conditional payment — Refusal letter