— 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)

Re:

Failure of a Member State to fulfil obligations — Failure to transpose, within the period prescribed, Council Directive 2003/96/EC of 27 October 2003 restructuring the Community framework for the taxation of energy products and electricity (OJ 2003 L 283, p. 51).

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 Council Directive 2003/96/EC of 27 October 2003 restructuring the Community framework for the taxation of energy products and electricity, the Italian Republic has failed to fulfil its obligations under that directive;

2. Orders the Italian Republic to pay the costs.

Order of the Court (Fifth Chamber) of 5 October 2006 — Schmidt-Brown v Commission

(Case C-365/05 P)

Appeal — Officials — Duty to provide assistance — Rejection of request for financial assistance in defamation proceedings brought before the United Kingdom courts

Appeal — Grounds — Clearly inadmissible or clearly unfounded pleas (Rules of Procedure of the Court, Art. 119; Staff Regulations, Art. 24) (see paras 61, 68, 78-82)