Judgment of the Court (Sixth Chamber) of 2 December 2010 — Commission v Portugal

(Case C-526/09)

(Failure of a Member State to fulfil obligations — Environment — Directive 91/271/EEC — Urban waste-water treatment — Article 11(1) and (2) — Discharge of industrial waste water into collecting systems and urban waste water treatment plants — Subject to prior regulations and/or specific authorisations — Lack of authorisation)

1. *Actions for failure to fulfil obligations — Proof of failure — Burden of proof on the Commission — Production of evidence showing failure — Incumbent on Member State concerned to refute evidence (Art. 258 TFEU; Council Directive 91/271, Art. 11(1) and (2)) (see paras 21-22, 32)*

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; Council Directive 91/271, Art. 11(1) and (2)) (see paras 24-25)*

Re:

Failure of a Member State to fulfil obligations — Infringement of Article 11(1) and (2) of Council Directive 91/271/EEC of 21 May 1991 concerning urban waste-water treatment (OJ 1991 L 135, p. 40) — Licence to discharge waste water — 'Estação de Serviço Sobritos'.

Operative part

The Court:

1. Declares that, by permitting the discharge of industrial waste water from the industrial site of Estação de Serviço Sobritos Lda, situated in the Matosinhos urban area, without adequate authorisation to that effect, the Portuguese

Republic has failed to fulfil its obligations under Article 11(1) and (2) of Council Directive 91/271/EEC of 21 May 1991 concerning urban waste-water treatment;

2. Orders the Portuguese Republic to pay the costs.

Judgment of the Court (Eighth Chamber) of 2 December 2010 — Commission v Greece

(Case C-534/09)

(Failure of a Member State to fulfil obligations — Directive 2008/1/EC — Pollution prevention and control — Requirements for the granting of permits for existing installations)

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; European Parliament and Council Directive 2008/1) (see paras 10-13)

Re:

Failure of a Member State to fulfil obligations — Infringement of Article 5(1) of Directive 2008/1/EC of the European Parliament and of the Council of 15 January 2008 concerning integrated pollution prevention and control (OJ 2008 L 24, p. 8) — Requirements for the granting of permits for existing installations — Obligation to ensure that such installations operate in accordance with the requirements of the directive.

Operative part

The Court:

1. Declares that, by failing to take the necessary measures to ensure that the competent national authorities see to it, by means of permits in accordance with Articles 6 and 8 of Directive 2008/1/EC of the European Parliament and