Operative part

The Court:

1. Sets aside the judgment of the Court of First Instance of 24 November 2005 in Case T-236/02 *Marcuccio* v *Commission;*

2. Refers the case back to the Court of First Instance of the European Communities;

3. Reserves the costs.

Judgment of the Court (Seventh Chamber) of 6 December 2007 — Commission v Luxembourg

(Case C-57/07)

Failure of a Member State to fulfil obligations — Directive 2003/86/EC — Right to family reunification — Non-transposition within the prescribed period

1. *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. 9)*

2. *Acts of the institutions — Directives — Implementation by Member States (see para. 10)*

Re:

FAILURE of a Member State to fulfil obligations — Failure to adopt, within the prescribed period, the measures necessary to comply with Council Directive 2003/86/EC of 22 September 2003 on the right to family reunification (OJ 2003 L 251, p. 12).

Operative part

The Court:

1. Declares that by not adopting, within the prescribed period, the legislative, regulatory and administrative measures necessary to comply with Council Directive 2003/86/EC of 22 September 2003 on the right to family reunification, the Grand Duchy of Luxembourg has failed to fulfil its obligations under that directive;

2. Orders the Grand Duchy of Luxembourg to pay the costs.

Judgment of the Court (Fifth Chamber) of 6 December 2007 — Commission v France

(Case C-106/07)

Failure of a Member State to fulfil obligations — Directive 2000/59/EC — Port reception facilities for ship-generated waste and cargo residues — Failure to develop and implement waste reception and handling plans for all ports

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. 16)

Re:

FAILURE of a Member State to fulfil obligations — Failure to adopt, within the prescribed period, the measures necessary to comply with Directive 2000/59/EC of the European Parliament and of the Council of 27 November 2000 on port reception facilities for ship-generated waste and cargo residues (OJ 2000 L 332, p. 81).