

1. Declares that, by maintaining a system of compulsory prior notification for imports of certain food products of animal origin from other Member States, the Kingdom of Sweden has failed to fulfil its obligations under Article 5 of Council Directive 89/662/EEC of 11 December 1989 concerning veterinary checks in intra-Community trade with a view to the completion of the internal market;
2. Orders the Kingdom of Sweden to pay the costs;
3. Orders the Republic of Finland to bear its own costs.

(¹) OJ C 112, 10.05.2003.

JUDGMENT OF THE COURT

(Grand Chamber)

of 13 September 2005

in Case C-176/03: Commission of the European Communities v Council of the European Union (¹)

(Action for annulment — Articles 29 EU, 31(e) EU, 34 EU and 47 EU — Framework Decision 2003/80/JHA — Protection of the environment — Criminal penalties — Community competence — Legal basis — Article 175 EC)

(2005/C 315/03)

(Language of the case: French)

In Case C-176/03: Commission of the European Communities (Agent: M. Petite, J. F. Pasquier and W. Bogensberger) supported by: European Parliament, (Agents: G. Garzón Clariana, H. Duintjer Tebbens and A. Baas, and M. Gómez-Leal) v Council of the European Union (Agent: J.-C. Piris, J. Schutte and K. Michoel) supported by: Kingdom of Denmark (Agent: J. Molde), Federal Republic of Germany (Agents: W.-D. Plessing and A. Dittrich), Hellenic Republic (Agents: E.-M. Mamouna and M. Tassopoulou), Kingdom of Spain (Agent: N. Díaz Abad), French Republic (Agents: G. de Bergues, F. Alabrune and E. Puisais), Ireland (Agent: D. O'Hagan, and P. Gallagher, E. Fitzsimons SC and E. Regan BL), Kingdom of the Netherlands (Agents: H.G. Sevenster and C. Wissels), Portuguese Republic (Agent: L. Fernandes and A. Fraga Pires), Republic of Finland (Agent: A. Guimaraes-Purokoski), Kingdom of Sweden (Agents: A. Kruse, K. Wistrand and A. Falk), United Kingdom of Great Britain and Northern Ireland (Agent: C. Jackson and R. Plender QC) — Application for annulment pursuant to Article 35 EU brought on 15 April 2003, — the Court (Grand Chamber), composed of P. Jann, President of the Chamber, C.W.A. Timmermans, A. Rosas, R. Silva de Lapuerta and A. Borg

Barthet, Presidents of Chambers, R. Schintgen (Rapporteur), N. Colneric, S. von Bahr, J. N. Cunha Rodrigues, G. Arestis, M. Ilešič and J. Malenovský, Judges; D. Ruiz-Jarabo Colomer, Advocate General; K. Sztranc, Administrator, for the Registrar, gave a judgment on 13 September 2005, in which it:

1. Annuls Council Framework Decision 2003/80/JHA of 27 January 2003 on the protection of the environment through criminal law;
2. Orders the Council of the European Union to pay the costs;
3. Orders the Kingdom of Denmark, the Federal Republic of Germany, the Hellenic Republic, the Kingdom of Spain, the French Republic, Ireland, the Kingdom of the Netherlands, the Portuguese Republic, the Republic of Finland, the Kingdom of Sweden, the United Kingdom of Great Britain and Northern Ireland and the European Parliament to bear their own costs.

(¹) OJ C 135 of 07.06.2003.

JUDGMENT OF THE COURT

(Third Chamber)

of 20 October 2005

in Case C-264/03: Commission of the European Communities v French Republic (¹)

(Failure of a Member State to fulfil obligations — Public contracts — Directive 92/50/EEC — Procedures for the award of public service contracts — Freedom to provide services — Agency of delegated project contracting — Persons to whom the task of delegated project contracting may be entrusted — Exhaustive list of legal persons created under French law)

(2005/C 315/04)

(Language of the case: French)

In Case C-264/03: ACTION under Article 226 EC for failure to fulfil obligations, brought on 17 June 2003, Commission of the European Communities (Agents: B. Stromsky, K. Wiedner and F. Simonetti) v French Republic (Agents: G. de Bergues and D. Petrausch — the Court (Third Chamber), composed of A. Rosas (Rapporteur), President of the Chamber, J. Malenovský, J.-P. Puissechet, A. Borg Barthet and U. Löhms, Judges; Advocate General: M. Poiares Maduro, Registrar: K. Sztranc, Administrator, gave a judgment on 20 October 2005, in which it:

Declares that, by reserving, in Article 4 of Law No 85-704 of 12 July 1985 on public project contracting and its relationship to private project management, as amended by Law No 96-987 of 14 November 1996 on the implementation of the urban revival pact, the task of delegated project contracting to an exhaustive list of legal persons created under French law, the French Republic has failed to fulfil its obligations under Council Directive 92/50/EEC of 18 June 1992 relating to the coordination of procedures for the award of public service contracts, as amended by European Parliament and Council Directive 97/52/EC of 13 October 1997, and under Article 49 EC.

(¹) OJ C 200 of 23.08.2003.

JUDGMENT OF THE COURT

(Third Chamber)

of 20 October 2005

in Joined Cases C-327/03 and C-328/03: References for a preliminary ruling from the Bundesverwaltungsgericht in Bundesrepublik Deutschland v ISIS Multimedia Net GmbH und Co. KG, and Others (¹)

(Telecommunications services — Directive 97/13/EC — Article 11(2) — Charge for the allocation of new telephone numbers — Stock of numbers available free of charge to the undertaking succeeding the former monopoly)

(2005/C 315/05)

(Language of the case: German)

In Joined Cases C-327/03 and C-328/03: two references for a preliminary ruling under Article 234 EC from the Bundesverwaltungsgericht (Germany), made by decisions of 30 April 2003, received at the Court on 28 July 2003, in the proceedings between Bundesrepublik Deutschland and ISIS Multimedia Net GmbH und Co. KG, represented by ISIS Multimedia Net Verwaltungs GmbH (C-327/03), Firma O2 (Germany) GmbH und Co. OHG (C-328/03) — the Court (Third Chamber), composed of A. Rosas, President of the Chamber, J. Malenovský, S. von Bahr (Rapporteur), A. Borg Barthet and U. Lohmus, Judges; D. Ruiz-Jarabo Colomer, Advocate General; M. Ferreira, Principal Administrator, for the Registrar, gave a judgment

on 20 October 2005, the operative part of which is as follows:

Article 11(2) of Directive 97/13/EC of the European Parliament and of the Council of 10 April 1997 on a common framework for general authorisations and individual licences in the field of telecommunications services must be interpreted as precluding national legislation such as that at issue in the main proceedings which provides that a new operator on the telecommunications market is required to pay a charge in respect of the allocation of telephone numbers taking account of their economic value, even though a telecommunications undertaking having a dominant position on the same market took over free of charge the very large stock of numbers which were available to its predecessor, the former monopoly, and national law precludes retrospective payment of such a charge in respect of that stock.

(¹) OJ C 251 of 18.10.2003.

JUDGMENT OF THE COURT

(Grand Chamber)

of 18 October 2005

in Case C-405/03: Reference for a preliminary ruling from the Gerechtshof te 's-Gravenhage in Class International BV v Colgate-Palmolive Company, Unilever NV, SmithKline Beecham plc, Beecham Group plc (¹)

(Trade marks — Directive 89/104/EEC — Regulation (EC) No 40/94 — Rights conferred by the trade mark — Use of the mark in the course of trade — Importation of original goods into the Community — Goods placed under the external transit procedure or the customs warehousing procedure — Opposition of the trade mark proprietor — Offering for sale or selling goods placed under the external transit procedure or the customs warehousing procedure — Opposition of the trade mark proprietor — Onus of proof)

(2005/C 315/06)

(Language of the case: Dutch)

In Case C-405/03: reference for a preliminary ruling under Article 234 EC from the Gerechtshof te 's-Gravenhage