

**Judgment of the Court (Seventh Chamber) of 11 November 2010 —  
Transportes Evaristo Molina v Commission**

**(Case C-36/09 P)**

(Appeal — Agreements, decisions and concerted practices — Service station market in Spain — Long-term exclusive fuel supply agreements — Commission decision — Right of purchase granted to certain service stations — Conditions of supply by Repsol — List of the service stations concerned — Action for annulment — Time-limits for commencing proceedings — Starting point)

1. *Actions for annulment — Time-limits — Point from which time starts to run — Date of publication of the measure at issue — Interested person concerned later — No effect (Art. 230, fifth para., EC; Rules of Procedure of the General Court, Art. 102(1)) (see paras 37-40)*
  
2. *Procedure — Time-limit for instituting proceedings — Claim barred by lapse of time — Unforeseeable circumstances or force majeure — Concepts that cannot concern the point from which time starts to run (Statute of the Court of Justice, Art. 45, second para.) (see paras 40, 43)*

**Re**

Appeal brought against the order of the Court of First Instance (Fourth Chamber) of 14 November 2008 in Case T-45/08 *Transportes Evaristo Molina v Commission*, by which that court dismissed the action for annulment of Commission Decision 2006/446/EC of 12 April 2006 relating to a proceeding pursuant to Article 81 EC (Case COMP/B-1/38348 — Repsol CPP) (summary published in OJ 2006 L 176, p. 104) making binding the undertakings given by Repsol CPP, adopted in accordance with Article 9 of Council Regulation (EC) No 1/2003 of 16 December 2002 on the implementation of the rules on competition laid down in Articles 81 [EC] and 82 [EC] (OJ 2003 L 1, p. 1).

## Operative part

The Court:

1. Dismisses the appeal;
2. Orders Transportes Evaristo Molina, SA to pay the costs.

### **Judgment of the Court (Fourth Chamber) of 11 November 2010 — Commission v Italy**

**(Case C-164/09)**

(Failure of a Member State to fulfil obligations — Conservation of wild birds — Directive 79/409/EEC — Derogations from the system of protection for wild birds — Hunting)

1. *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. 226 EC) (see para. 19)*
2. *Environment — Conservation of wild birds — Directive 79/409 — Implementation by Member States — Derogations from the prohibition of killing or capturing protected species — Conditions — No other satisfactory solution — Conditions not satisfied — Unlawful (Council Directive 79/409, Arts 7 and 9) (see paras 22-27)*
3. *Environment — Conservation of wild birds — Directive 79/409 — Implementation by Member States — Derogations from the prohibition of killing or capturing protected species — Conditions — Fixing for a period of five years the number of specimens that may be taken (Council Directive 79/409, Arts 7 and 9) (see paras 29-30)*