

# Case C-186/98

## **Criminal proceedings against Maria Amélia Nunes and Evangelina de Matos**

(Reference for a preliminary ruling  
from the Tribunal de Círculo do Porto)

(Financial assistance granted from the European Social Fund — Improper use of  
funds — Penalties under Community law and national law)

Opinion of Advocate General Jacobs delivered on 20 May 1999 . . . . . I-4885  
Judgment of the Court (First Chamber), 8 July 1999 . . . . . I-4890

### Summary of the Judgment

1. *Social policy — European Social Fund — Financial assistance for vocational training schemes — Improper use of funds — Nature of disciplinary measures under Community law — Not criminal penalties*  
(Council Regulation No 2950/83, Art. 6)
2. *Member States — Obligations — Obligation to penalise infringements of Community law — Scope*  
(EC Treaty, Art. 5 (now Art. 10 EC))

1. Community legislation does not classify the improper use of assistance from the European Social Fund (ESF) as a criminal offence.

It is clear from Article 6 of Regulation No 2950/83 on the implementation of Decision 83/516 on the tasks of the ESF that the consequences of using ESF assistance in breach of the conditions set out in the decision of approval are not in the nature of criminal penalties.

harmful to the financial interests of the Community where Community legislation does not specifically provide any penalty for infringement or refers for that purpose to national laws, regulations and administrative provisions. The same reasoning applies where Community legislation lays down particular penalties for infringement, but does not exhaustively list the penalties that the Member States may impose. In such cases, national measures may include criminal penalties even where the Community legislation only provides for civil sanctions to be imposed.

2. Article 5 of the Treaty (now Article 10 EC) requires the Member States to take all measures necessary to guarantee the application and effectiveness of Community law and, accordingly, to take all effective measures to penalise conduct

The penalty provided for by the national authorities must be analogous to that applicable to infringements of national law of similar nature and importance, and must be effective, proportionate and dissuasive.