OPINION OF MR ADVOCATE GENERAL LENZ
delivered on 21 October 1987 *

Mr President,
Members of the Court,

1. It appears that the legal situation in Italy is not yet in conformity with the Court's judgment of 7 February 1984 in Case 166/82 [1] (in which it was held that Articles 10 and 11 of Italian Law No 306 of 8 July 1975 are not consistent with Regulation (EEC) No 804/68 [2] on the common organization of the market in milk and milk products).

2. The Court has been informed by the Italian Republic that the contested provisions have ceased to be applied — in any event, since the judgment of 7 February 1984 — and that on 8 October 1987 the Government laid before the newly-elected Chambers of the Italian Parliament a draft law for the repeal of the provisions at issue.

3. This means that the Italian Republic has not taken all the necessary measures pursuant to Article 171 of the EEC Treaty to comply with the aforesaid judgment.

4. To that end it is not enough to stop the conduct complained of and to *initiate* a procedure for the amendment of the law in question; rather, it is necessary, as the judgment in Case 131/84 [3] shows, that that procedure should be concluded. Furthermore, it was also held in that judgment that measures to that effect (that is to say, measures which effectively alter the legal situation) are to be adopted in the shortest possible period. In this case, such a period — calculated from the delivery of the judgment on 7 February 1984 — has long since elapsed.

5. In so far as the Italian Government refers to problems and difficulties connected with the Italian legislative procedure, it is sufficient to point to the standard formula used in previous judgments, which covers precisely such circumstances (a Member State may not plead provisions, practices or circumstances existing in its internal legal system in order to justify a failure to comply with its obligations under Community law). Furthermore, according to the judgment in Joined Cases 314 to 316/81 and 83/82, [4] all the institutions of a Member State must ensure that judgments of the Court are complied with. If, therefore, it is found that certain legal provisions are incompatible with Community law, the relevant legislative authority is under a duty to amend those provisions.

* Translated from the German.

1 — Judgment of 7 February 1984 in Case 166/82 *Commission* v *Italian Republic* [1984] ECR 459.

2 — Official Journal, English Special Edition 1968 (I), p. 176.

3 — Judgment of 6 November 1985 in Case 131/84 *Commission* v *Italy* [1985] ECR 3531.

4 — Judgment of 14 December 1982 in Joined Cases 314 to 316/81 and 83/82 *Procureur de la république and comité national de défense contre l'alcoolisme* v *Waterkeyn and Others* [1982] ECR 4337.

6. Accordingly, the Commission's application should be upheld and the Court should declare that, by failing to comply with the judgment of the Court of Justice in Case 166/82 concerning the formation of the producer price for milk, the Italian Republic has failed to fulfil its obligations under the EEC Treaty.