JUDGMENT OF THE COURT
6 February 1992 *

In Case C-77/91,

Commission of the European Communities, represented by Antonio Aresu and Maria Blanca Rodríguez Galindo, members of its Legal Service, acting as Agents, with an address for service in Luxembourg at the office of Roberto Hayder, a representative of the Commission's Legal Service, Wagner Centre, Kirchberg,

applicant,

v

Italian Republic, represented by Professor Luigi Ferrari Bravo, Head of the Contentious Diplomatic Affairs Department of the Ministry of Foreign Affairs, acting as Agent, assisted by P. G. Ferri, Avvocato dello Stato, with an address for service in Luxembourg at the Italian Embassy, 5 Rue Marie-Adelaïde,

defendant,

APPLICATION for a declaration that, by failing to adopt within the prescribed period all the provisions necessary to comply with Council Directive 81/851/EEC of 28 September 1981 on the approximation of the laws of the Member States relating to veterinary medicinal products (Official Journal 1981 L 317, p. 1) and Council Directive 81/852/EEC of 28 September 1981 on the approximation of the laws of the Member States relating to analytical, pharmaco-toxicological and clinical standards and protocols in respect of the testing of veterinary medicinal products (Official Journal 1981 L 317, p. 16), the Italian Republic has failed to fulfil its obligations under the Treaty establishing the European Economic Community,

* Language of the case: Italian.

THE COURT,

composed of: O. Due, President, R. Joliet, F. A. Schockweiler and F. Grévisse (Presidents of Chambers), G. F. Mancini, J. C. Moitinho de Almeida, G. C. Rodríguez Iglesias, M. Zuleeg and J. L. Murray, Judges,

Advocate General: C. Gulmann,
Registrar: J.-G. Giraud,

having regard to the Report of the Judge-Rapporteur,

after hearing the Opinion of the Advocate General at the sitting on 16 January 1992,

gives the following

Judgment

1 By an application lodged at the Court Registry on 26 February 1991, the Commission of the European Communities brought an action under Article 169 of the EEC Treaty for a declaration that, by failing to adopt within the prescribed period all the provisions necessary to comply with Council Directive 81/851/EEC of 28 September 1981 on the approximation of the laws of the Member States relating to veterinary medicinal products (Official Journal 1981 L 317, p. 1) and Council Directive 81/852/EEC of 28 September 1981 on the approximation of the laws of the Member States relating to analytical, pharmaco-toxicological and clinical standards and protocols in respect of the testing of veterinary medicinal products (Official Journal 1981 L 317, p. 16), the Italian Republic has failed to fulfil its obligations under the Treaty establishing the European Economic Community.

2 Under Article 51 of Directive 81/851 and Article 3 of Directive 81/852, the Member States are to adopt the measures necessary to comply with those directives within a period of 24 months from notification and forthwith inform the Commission thereof.

3 The Commission considered that the Italian Republic had not adopted the necessary transposition measures within the prescribed period and brought an action under Article 169 of the Treaty for a declaration that it had failed to fulfil its obligations.

4 Reference is made to the Report of the Judge-Rapporteur for a fuller account of the facts of the case, the course of the procedure and the submissions and arguments of the parties, which are mentioned or discussed hereinafter only in so far as is necessary for the reasoning of the Court.

5 The Commission claims that because of the mandatory nature of directives Member States are required to comply with them within the prescribed periods and to adopt measures to ensure that they are transposed into the national legal system.

6 The Italian Republic admits that the legislative provisions necessary to implement Directives 81/851 and 81/852 have not yet been adopted and confines itself to stating that the alleged failure should shortly be remedied.

7 It must therefore be held that, by failing to adopt within the prescribed period the provisions necessary to implement Council Directive 81/851/EEC and Council Directive 81/852/EEC, the Italian Republic has failed to fulfil its obligations under the Treaty.

Costs

8 Under Article 69(2) of the Rules of Procedure, the unsuccessful party is to be ordered to pay the costs. Since the Italian Republic has been unsuccessful, it must be ordered to pay the costs.

On those grounds,

THE COURT

hereby:

1. **Declares that, by failing to adopt within the prescribed period the provisions necessary to implement Council Directive 81/851/EEC of 28 September 1981 on the approximation of the laws of the Member States relating to veterinary medicinal products and Council Directive 81/852/EEC of 28 September 1981 on the approximation of the laws of the Member States relating to analytical, pharmaco-toxicological and clinical standards and protocols in respect of the testing of veterinary medicinal products, the Italian Republic has failed to fulfil its obligations under the Treaty establishing the European Economic Community;**

2. **Orders the Italian Republic to pay the costs.**

Due Joliet Schockweiler Grévisse

Mancini Moitinho de Almeida Rodríguez Iglesias Zuleeg Murray

Delivered in open court in Luxembourg on 6 February 1992.

J.-G. Giraud — Registrar

O. Due — President