JUDGMENT OF THE COURT (Fifth Chamber)
12 March 1998 *

In Case C-313/97,

Commission of the European Communities, represented by L. Pignataro, of its Legal Service, acting as Agent, with an address for service in Luxembourg at the office of C. Gómez de la Cruz, of its Legal Service, Wagner Centre, Kirchberg,

applicant,

v

Italian Republic, represented by Professor U. Leanza, Head of the Legal Department in the Ministry of Foreign Affairs, acting as Agent, assisted by G. Aiello, Avvocato dello Stato, with an address for service in Luxembourg at the Italian Embassy, 5 Rue Marie-Adélaïde,

defendant,

APPLICATION for a declaration that, by failing to adopt and/or communicate the laws, regulations and administrative provisions necessary in order to comply with Council Directive 94/57/EC of 22 November 1994 on common rules and standards for ship inspection and survey organisations and for the relevant activities of maritime administrations (OJ 1994 L 319, p. 20), the Italian Republic has failed to fulfil its obligations under the EC Treaty and under that directive,

* Language of the case: Italian.

THE COURT (Fifth Chamber),

composed of: C. Gulmann, President of the Chamber, M. Wathelet (Rapporteur), J. C. Moitinho de Almeida, J.-P. Puissochet and L. Sevón, Judges,

Advocate General: F. G. Jacobs,
Registrar: R. Grass,

having regard to the Report of the Judge-Rapporteur,

after hearing the Opinion of the Advocate General at the sitting on 22 January 1998,

gives the following

Judgment

1 By application lodged at the Court Registry on 10 September 1997, the Commission of the European Communities brought an action under Article 169 of the EC Treaty for a declaration that, by failing to adopt and/or communicate the laws, regulations and administrative provisions necessary in order to comply with Council Directive 94/57/EC of 22 November 1994 on common rules and standards for ship inspection and survey organisations and for the relevant activities of maritime administrations (OJ 1994 L 319, p. 20; 'the Directive'), the Italian Republic has failed to fulfil its obligations under the EC Treaty and the Directive.

2 Under Article 16 of the Directive the Member States were to bring into force the laws, regulations and administrative provisions necessary in order to comply with

the Directive no later than 31 December 1995 and immediately to inform the Commission thereof.

3 Since it had received no notification concerning the transposition of the Directive into Italian law and had no other information enabling it to conclude that the Italian Republic had complied with that obligation, the Commission sent that State a letter on 27 February 1996 giving it formal notice to submit its observations within two months from receipt thereof, in accordance with Article 169 of the Treaty.

4 Since the Italian Government did not respond to that letter, the Commission, by letter of 6 December 1996, sent the Italian Republic a reasoned opinion concerning its failure to fulfil the obligations imposed by the Directive and calling on it to take the necessary measures to comply with the opinion within two months from notification thereof.

5 By letter of 30 January 1997 the Italian Government informed the Commission that the Directive had been included in the 1995/1996 Community Law, which the Cabinet had approved at the meeting of 8 November 1996, and that the Directive had been submitted for consideration by Parliament, together with the other directives to be implemented by legislative decree.

6 In addition, on 30 July 1997 the Italian Government sent the Commission a copy of a draft law, accompanied by its explanatory memorandum, intended to transpose the Directive and stated that the legislative procedure in question would be completed before the summer recess.

7 Not having received any other information from the Italian Government enabling it to conclude that the Italian Republic had in the meantime complied with the obligations under the Directive, the Commission brought this action.

8 The Italian Government does not deny that it has failed to fulfil its obligations and states that the measures necessary in order to transpose the Directive are in the course of being adopted.

9 Since the Directive has not been transposed within the period laid down therein, the Commission's application must be held to be well founded.

10 It must therefore be held that, by failing to adopt, within the prescribed period, the laws, regulations and administrative provisions necessary in order to comply with the Directive, the Italian Republic has failed to fulfil its obligations under Article 16 thereof.

Costs

11 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 (Fifth Chamber)

hereby:

1. **Declares that, by failing to adopt, within the prescribed period, the laws, regulations and administrative provisions necessary in order to comply with Council Directive 94/57/EC of 22 November 1994 on common rules and standards for ship inspection and survey organisations and for the relevant activities of maritime administrations, the Italian Republic has failed to fulfil its obligations under Article 16 thereof;**

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

Gulmann Wathelet Moitinho de Almeida

Puissochet Sevón

Delivered in open court in Luxembourg on 12 March 1998.

R. Grass C. Gulmann

Registrar President of the Fifth Chamber