JUDGMENT OF THE COURT
2 March 1988 *

In Case 309/86

Commission of the European Communities, represented by Guido Berardis, a member of its Legal Department, acting as Agent, with an address for service in Luxembourg at the office of G. Kremlis, also a member of its Legal Department, Jean Monnet Building, Kirchberg,

applicant,

v

Italian Republic, represented by Luigi Ferrari Bravo, Head of the Department for Contentious Diplomatic Affairs, acting as Agent, assisted by Ivo M. Braguglia, Avvocato dello Stato, with an address for service in Luxembourg at the Italian Embassy,

defendant,

APPLICATION for a declaration that the Italian Republic has failed to fulfil its obligations under the EEC Treaty by failing to adopt within the period prescribed the provisions needed to comply with:

Council Directive 82/242/EEC of 31 March 1982 on the approximation of the laws of the Member States relating to methods of testing the biodegradability of non-ionic surfactants and amending Directive 73/404/EEC (Official Journal 1982, L 109, p. 1), and

Council Directive 82/243/EEC of 31 March 1982 amending Directive 73/405/EEC on the approximation of the laws of the Member States relating to methods of testing the biodegradability of anionic surfactants (Official Journal 1982, L 109, p. 18),

* Language of the Case: Italian.

THE COURT

composed of: Lord Mackenzie Stuart, President, G. Bosco, O. Due and G. C. Rodríguez Iglesias (Presidents of Chambers), T. Koopmans, C. Kakouris, R. Joliet, T. F. O'Higgins and F. Schockweiler, Judges,

Advocate General: M. Darmon
Registrar: H. A. Rühl, Principal Administrator

having regard to the Report for the Hearing and further to the hearing on 15 December 1987,

after hearing the Opinion of the Advocate General delivered at the sitting on the same date,

gives the following

Judgment

1 By an application lodged at the Court Registry on 12 December 1986 the Commission of the European Communities brought an action under Article 169 of the EEC Treaty for a declaration that the Italian Republic has failed to fulfil its obligations under the EEC Treaty by failing to adopt within the period prescribed the provisions needed to comply with:

Council Directive 82/242/EEC of 31 March 1982 on the approximation of the laws of the Member States relating to methods of testing the biodegradability of non-ionic surfactants and amending Directive 73/404/EEC, and

Council Directive 82/243/EEC of 31 March 1982 amending Directive 73/405/EEC on the approximation of the laws of the Member States relating to methods of testing the biodegradability of anionic surfactants (hereinafter referred to as 'the directives').

2 The directives provide that the Member States are to bring into force the provisions necessary to comply with them within a period of 18 months of their notification and to inform the Commission thereof forthwith. The directives were notified to the Italian Republic on 8 April 1982.

3 As the Commission had not received any communication from the Italian Government concerning the measures transposing the directives in question into national law, it sent a letter of formal notice to the Italian Government on 12 November 1984 requesting it to submit its observations. By a telex message of 6 March 1986 the Permanent Representation of Italy at the European Communities replied that the Italian Minister for Health was considering a suitable method of analysing detergents which would make early implementation of the Community rules possible. After delivering a reasoned opinion on 14 May 1986 to which there was no response the Commission brought this action.

4 Reference is made to the Report for the Hearing for the background to the dispute 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 Italian Government accepts that it has failed to fulfil its obligations but observes that its domestic legislation, in particular Law No 136 of 13 April 1983, on the method of determining the percentage level of biodegradability of anionic synthetic detergents, contains provisions enabling some of the objectives of the directives to be attained. Consequently, in its view its failure consists in the fact that it has given only partial effect to those directives.

6 It must be pointed out that, as the Court has reaffirmed in particular in its judgment of 9 April 1987 in Case 363/85 (*Commission* v *Italian Republic* [1987] ECR 1733) the transposition of Community directives into domestic law must effectively guarantee their full application. The Italian Government has admitted that its domestic legislation does not represent a complete transposition of the directives in question.

7 It follows that it must be declared that, by failing to adopt within the prescribed period the provisions needed to comply with Council Directives 82/242 and 82/243 of 31 March 1982, the Italian Republic has failed to fulfil its obligations under the EEC 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 defendant has failed in its submissions, it must be ordered to pay the costs.

On those grounds,

THE COURT

hereby:

(1) Declares that, by failing to adopt within the period prescribed the provisions needed to comply with Council Directive 82/242/EEC of 31 March 1982 on the approximation of the laws of the Member States relating to methods of testing the biodegradablity of non-ionic surfactants and amending Directive 73/404/EEC, and Council Directive 82/243/EEC of 31 March 1982 amending Directive 73/405/EEC on the approximation of the laws of the Member States relating to methods of testing the biodegradability of anionic surfactants, the Italian Republic has failed to fulfil its obligations under the EEC Treaty;

(2) Orders the Italian Republic to pay the costs.

Mackenzie Stuart Bosco Due Rodríguez Iglesias

Koopmans Kakouris Joliet O'Higgins Schockweiler

Delivered in open court in Luxembourg on 2 March 1988.

Registrar

J.-G. Giraud

President

A. J. Mackenzie Stuart