JUDGMENT OF THE COURT (First Chamber)

16 December 1999 *

In Case C-137/99,

Commission of the European Communities, represented by M. Condou-Durande, 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

Hellenic Republic, represented by V. Kontolaimos, Legal Adviser in the State Legal Service, and D. Tsagkaraki, Legal Assistant in the European Law Department of the Special Legal Service of the Ministry of Foreign Affairs, acting as Agents, with an address for service in Luxembourg at the Greek Embassy, 117 Val Sainte-Croix,

defendant,

* Language of the case: Greek.

APPLICATION for a declaration that, by failing to adopt the laws, regulations and administrative provisions necessary in order to comply with Council Directive 96/43/EC of 26 June 1996 amending and consolidating Directive 85/73/EEC in order to ensure financing of veterinary inspections and controls on live animals and certain animal products and amending Directives 90/675/EEC and 91/496/EEC (OJ 1996 L 162, p. 1), the Hellenic Republic has failed to fulfil its obligations under the EC Treaty and under that directive,

THE COURT (First Chamber),

composed of: L. Sevón, President of the Chamber, P. Jann (Rapporteur) and M. Wathelet, Judges,

Advocate General: N. Fennelly,
Registrar: R. Grass,

having regard to the report of the Judge-Rapporteur,

after hearing the Opinion of the Advocate General at the sitting on 28 October 1999,

gives the following

Judgment

1 By application lodged at the Court Registry on 19 April 1999 the Commission of the European Communities brought an action under Article 169 of the EC Treaty (now Article 226 EC) for a declaration that, by failing to adopt the laws, regulations and administrative provisions necessary in order to comply with Council Directive 96/43/EC of 26 June 1996 amending and consolidating Directive 85/73/EEC in order to ensure financing of veterinary inspections and controls on live animals and certain animal products and amending Directives 90/675/EEC and 91/496/EEC (OJ 1996 L 162, p. 1), the Hellenic Republic has failed to fulfil its obligations under the EC Treaty and under that directive.

2 Article 1 of Directive 96/43 provides that the title, the articles and the annexes to Council Directive 85/73/EEC of 29 January 1985 on the financing of health inspections and controls of fresh meat and poultrymeat (OJ 1985 L 32, p. 14) are to be replaced by the text set out in the annex to Directive 96/43. The new title of Directive 85/73 is henceforth Council Directive 85/73/EEC of 29 January 1985 on the financing of veterinary inspections and controls covered by Directives 89/662/EEC, 90/425/EEC, 90/675/EEC and 91/496/EEC.

3 The first and second subparagraphs of Article 4(1) of Directive 96/43 provide as follows in relation to the implementation of Directive 85/73, as amended and consolidated by Directive 96/43:

'Member States shall bring into force laws, regulations and administrative provisions necessary to comply with:

(i) the provisions of Article 7 and of Chapter I(1)(e) of Annex A by 1 July 1996;

(ii) the provisions of Chapter II, Section II of Chapter III of Annex A and Chapter II of Annex C by 1 January 1997;

(iii) other amendments by 1 July 1997.

Member States shall have a further period which can extend to 1 July 1999 within which to comply with the provisions of Section I of Chapter III of Annex A.'

4 Having received no notification of any provision intended to transpose Directive 96/43 into Greek law, and in the absence of any other information from which it could conclude that the Hellenic Republic had fulfilled its obligation to do so, the Commission, by letter of 5 November 1997, gave that Member State two months' formal notice in which to submit its observations, in accordance with the procedure provided for in Article 169 of the Treaty.

5 The Greek authorities replied by letter of 8 January 1998, stating that they were preparing the measures necessary in order to transpose Directive 96/43 into national law.

6 On 29 July 1998 the Commission, considering that those measures had not yet been taken, sent a reasoned opinion to the Hellenic Republic requiring it to take the measures needed to comply with its obligations under Directive 96/43 within two months from notification of that opinion.

7 In the absence of confirmation from the Hellenic Republic of the transposition of Directive 96/43, the Commission brought the present action.

8 The Hellenic Republic states that the Ministry of Agriculture has included, in a draft law which has already been signed, a provision laying down rules concerning the matters addressed by Directive 96/43. According to that draft, decrees are to be enacted jointly by the Ministries of Finance and Agriculture, providing for the fixing and collection of fees in order to ensure financing of veterinary inspections and controls.

9 It is apparent from those explanations that the provisions referred to in the first subparagraph of Article 4(1) of Directive 96/43 have not been transposed within the periods prescribed by that article. Consequently, the action brought by the Commission in that regard must be regarded as well founded.

10 As regards, on the other hand, the provisions referred to in the second subparagraph of Article 4(1) of Directive 96/43, it should be noted that, according to the wording of that article, Member States are to have a further period, which may extend to 1 July 1999, in which to transpose the provisions in question. Since that period had not yet expired on the date by which the Hellenic Republic was required by the Commission to comply with the reasoned opinion, the action must be dismissed in so far as it also concerns adoption of the measures necessary in order to comply with the provisions referred to in the second subparagraph of Article 4(1) of Directive 96/43.

11 It must therefore be held that, by failing to adopt within the prescribed period the laws, regulations and administrative provisions necessary to comply with the provisions referred to in the first subparagraph of Article 4(1) of Directive 96/43, the Hellenic Republic has failed to fulfil its obligations under that article. The remainder of the action must be dismissed.

Costs

12 Under Article 69(2) of the Rules of Procedure, the unsuccessful party is to be ordered to pay the costs if they have been applied for in the successful party's pleadings. Since the Commission has asked that the Hellenic Republic be ordered to pay the costs and the latter has been essentially unsuccessful, it must be ordered to pay the costs.

On those grounds,

THE COURT (First Chamber)

hereby:

1. **Declares that, by failing to adopt within the prescribed period the laws, regulations and administrative provisions necessary to comply with the provisions referred to in the first subparagraph of Article 4(1) of Council Directive 96/43/EC of 26 June 1996 amending and consolidating Directive 85/73/EEC in order to ensure financing of veterinary inspections and controls on live animals and certain animal products and amending Directives 90/675/EEC and 91/496/EEC, the Hellenic Republic has failed to fulfil its obligations under that article;**

2. **Dismisses the remainder of the action;**

3. **Orders the Hellenic Republic to pay the costs.**

Sevón Jann Wathelet

Delivered in open court in Luxembourg on 16 December 1999.

R. Grass L. Sevón

Registrar President of the First Chamber