JUDGMENT OF THE COURT
6 November 1985 *

In Case 131/84

Commission of the European Communities, represented by its Legal Adviser, Armando Toledano Laredo, acting as Agent, with an address for service in Luxembourg at the office of Manfred Beschel, a member of the Commission's Legal Department, Jean Monnet Building, Kirchberg,

applicant,

v

Italian Republic, represented by Arnaldo Squillante, acting as Agent, assisted by Ivo Braguglia, Avvocato dello Stato, with an address for service in Luxembourg at the Italian Embassy,

defendant,

APPLICATION for a declaration that by not having complied with the judgment delivered by the Court of Justice on 8 June 1982 in Case 91/81 the Italian Republic has failed to fulfil its obligations under Article 171 of the EEC Treaty,

THE COURT

composed of: Lord Mackenzie Stuart, President, K. Bahlmann and R. Joliet (Presidents of Chambers), G. Bosco, T. Koopmans, O. Due and T. F. O'Higgins, Judges,

Advocate General: P. VerLoren van Themaat
Registrar: D. Louterman, Administrator

after hearing the Opinion of the Advocate General delivered at the sitting on 10 July 1985,

gives the following

* Language of the Case: Italian.

JUDGMENT

(The account of the facts and issues which is contained in the complete text of the judgment is not reproduced)

Decision

1 By an application lodged at the Court Registry on 17 May 1984, the Commission of the European Communities brought an action before the Court under Article 169 of the EEC Treaty for a declaration that by not having complied with the judgment delivered by the Court on 8 June 1982 (Case 91/81 *Commission* v *Italian Republic* [1982] ECR 2133) the Italian Republic has failed to fulfil its obligations under Article 171 of the EEC Treaty.

2 In that judgment, the Court held as follows:

'... by not adopting within the prescribed period the measures needed in order to comply with Council Directive 75/129/EEC of 17 February 1975 on the approximation of the laws of the Member States relating to collective redundancies (Official Journal 1975, L 48, p. 29), the Italian Republic has failed to fulfil its obligations under the Treaty'.

3 The Commission considers that, in breach of Article 171 of the Treaty, the Italian Republic has not taken the measures required for implementation of the Court's judgment. Therefore, after an exchange of letters with the Italian Government, on 28 February 1984 it delivered a reasoned opinion under the first paragraph of Article 169 of the Treaty. Since that opinion was not acted upon, the Commission brought the present action.

4 The Commission claims that, by not taking the measures necessary for implementation of the abovementioned judgment, the Italian Republic has failed to fulfil its obligations. It considers that although Article 171 does not lay down a mandatory period within which a Member State must take the measures required for compliance with judgments of the Court, it should be taken to mean that those measures must be adopted as soon as possible. In its order of 28 March 1980

(Joined Cases 24 and 97/80 R *Commission* v *French Republic* [1980] ECR 1319), the Court stated that by reason solely of the judgment declaring the Member State to be in default, the State concerned is required to take the necessary measures to remedy its default and may not create any impediment whatsoever.

5 The Italian Republic contends that Directive 75/129 has not yet been fully implemented for objective reasons. In Italy's present social and economic situation, legislative activity must be directed primarily towards maintaining the level of employment and it would be inappropriate to adopt rules concerning collective redundancies at a time when there is an emergency which must be dealt with in order to safeguard employment.

6 It has been consistently held by the Court that a Member State may not plead provisions, practices or circumstances existing in its internal legal system in order to justify failure to comply with obligations and time-limits laid down in directives. According to Directive 75/129, the measures should have been adopted by 19 February 1977. In its judgment of 8 June 1982 the Court held that by failing fully to implement the Directive within the prescribed period, the Italian Republic had failed to fulfil its obligations under the Treaty.

7 Article 171 of the EEC Treaty does not lay down a time-limit within which a judgment must be complied with. However, it is well established that the implementation of a judgment must be commenced immediately and must be completed as soon as possible. In the present case, there has been unreasonable delay.

8 In view of all the foregoing considerations, it must be stated that by not having complied with the judgment delivered by the Court on 8 June 1982 (Case 91/81 *Commission* v *Italian Republic* [1982] ECR 2133), the Italian Republic has failed to fulfil its obligations under Article 171 of the EEC Treaty.

Costs

9 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 failed in its submissions, it must be ordered to pay the costs.

On those grounds,

THE COURT

hereby:

(1) Declares that by not having complied with the judgment delivered by the Court of Justice on 8 June 1982 in Case 91/81, the Italian Republic has failed to fulfil its obligations under Article 171 of the EEC Treaty;

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

Mackenzie Stuart Bahlmann Joliet

Bosco Koopmans Due O'Higgins

Delivered in open court in Luxembourg on 6 November 1985.

P. Heim
Registrar

A. J. Mackenzie Stuart
President