OPINION OF ADVOCATE GENERAL SIR GORDON SLYNN DELIVERED ON 14 SEPTEMBER 1983

My Lords,

This is an application by the Commission under Article 169 of the EEC Treaty for a declaration that the Republic of Italy has failed to fulfil its obligations under the Treaty in that it has not adopted the measures necessary to implement Council Directive 77/796 of 12 December 1977 (Official Journal, L 334, 24. 12.1977, p. 37). The directive was aimed at the mutual recognition of diplomas, certificates and other evidence of formal qualifications for goods haulage operators and road passenger transport operators, including measures intended to encourage these operators effectively to exercise their right to freedom of establishment.

By Article 7 of the directive, Member States were to bring into force the measures necessary to comply with the directive before 1 January 1979 and to inform the Commission immediately. In October 1980, the Commission drew the Italian Government's attention to the fact that this directive had not been implemented and, in the absence of a reply, on 15 January 1982 the Commission sent a reasoned opinion to the Italian Government concluding that the government was in breach of its obligations under the Treaty. As no effective reply was received to that, proceedings were brought before the Court.

In its defence, in December 1982, the Italian Government said that in order to implement the directive it was necessary for a bill to be presented to Parliament. A bill had already passed through a committee but had to be approved by the Senate. That draft bill, however, was concerned only with the transport of goods. A further bill relating to the transport of persons was still in the process of being drafted. It now appears that, following the dissolution of Parliament and the subsequent parliamentary elections, a new bill must be presented and the Court has been told, by way of explanation, albeit not by way of answer to the Commission's claim, that steps will be taken shortly for the bill to be re-presented.

The Court has said, on many occasions, that a Member State is not entitled to rely on circumstances or practices existing in its own internal parliamentary or legal system to justify failing to comply with the terms of a directive.

In consequence, in my opinion, the declaration sought by the Commission should be granted and the Republic of Italy should be ordered to pay the costs of this application.