JUDGMENT OF THE COURT (Fourth Chamber)

10 May 2001 *

In Case C-285/00,

Commission of the European Communities, represented by B. Mongin, acting as Agent, with an address for service in Luxembourg,

applicant,

v

French Republic, represented by J.-F. Dobelle and C. Bergeot-Nunes, acting as Agents, with an address for service in Luxembourg,

defendant,

APPLICATION for a declaration that, by its failure to enact legislation specifically concerning the recognition of diplomas giving access to the profession

* Language of the case: French.

of psychologist for the purpose of implementing, as regards that profession, Council Directive 89/48/EEC of 21 December 1988 on a general system for the recognition of higher-education diplomas awarded on completion of professional education and training of at least three years' duration (OJ 1989 L 19, p. 16), the French Republic has failed to fulfil its obligations under that directive.

THE COURT (Fourth Chamber),

composed of: A. La Pergola, President of the Chamber, D.A.O. Edward (Rapporteur) and C.W.A. Timmermans, Judges,

Advocate General: D. Ruiz-Jarabo Colomer,
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 February 2001,

gives the following

Judgment

1 By application lodged at the Court Registry on 20 July 2000, the Commission of the European Communities brought an action under Article 226 EC for a declaration that, by its failure to enact legislation specifically concerning the recognition of diplomas giving access to the profession of psychologist for the purpose of implementing, as regards that profession, Council Directive 89/48/EEC of 21 December 1988 on a general system for the recognition of higher-education diplomas awarded on completion of professional education and training of at least three years' duration (OJ 1989 L 19, p. 16), the French Republic has failed to fulfil its obligations under that directive.

2 Directive 89/48 established a general system for the recognition of higher-education diplomas awarded on completion of professional training of at least three years' duration. It applies to regulated professions, that is to say, professions the taking up or pursuit of which is subject, directly or indirectly by virtue of laws, regulations or administrative provisions, to the possession of a diploma.

3 Article 12 of the directive provides that Member States shall take the measures necessary to comply with the directive within two years of its notification and that they are immediately to inform the Commission thereof.

4 By letter of formal notice dated 17 September 1997, the Commission initiated the infringement procedure, pointing out, first, that Directive 89/48 had not been implemented as regards the profession of psychologist and, second, that the principles of that directive were not being applied to applications for recognition of psychology diplomas obtained in another Member State.

5 On 26 June 1998, the French Government replied to the letter of formal notice, maintaining, first, that it had settled the individual case cited by way of example in the Commission's letter, where the principles laid down by Directive 89/48 had not been applied, and, second, that it had instigated the procedure designed to ensure that its national legislation complied with Community law.

6 However, in the absence of any detailed information concerning the draft legislation designed to implement Directive 89/48 as regards the profession of psychologist or any proposed timetable for its enactment, the Commission delivered a reasoned opinion to the French Republic on 15 October 1998, requesting it to take the measures necessary to comply with that opinion within a period of two months from its notification.

7 Since no information was received from the French Government enabling the Commission to conclude that the French Republic had definitively adopted the measures necessary to ensure compliance with its obligations under Directive 89/48 and had brought such measures into force, the Commission brought the present action.

8 Although the French Government points out in its defence that a draft enabling law designed, *inter alia*, to effect the implementation of Directive 89/48 was adopted by the Council of Ministers at its meeting on 5 September 2000, it admits that it has not implemented the directive correctly as regards the profession of psychologist, which, in France, is a regulated profession.

9 Accordingly, the Commission's action must be considered well founded.

10 It must therefore be held that, by having failed to adopt legislation specifically concerning the recognition of diplomas giving access to the profession of psychologist for the purpose of implementing, as regards that profession, Directive 89/48, the French Republic has failed to fulfil its obligations under that directive.

Costs

11 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 applied for costs and the French Republic has been unsuccessful, the latter must be ordered to pay the costs.

On those grounds,

THE COURT (Fourth Chamber),

hereby:

1. Declares that, by its failure to enact legislation specifically concerning the recognition of diplomas giving access to the profession of psychologist for the purpose of implementing, as regards that profession, Council Directive 89/48/EEC of 21 December 1988 on a general system for the recognition of higher-education diplomas awarded on completion of professional education and training of at least three years' duration, the French Republic has failed to fulfil its obligations under that directive;

2. Orders the French Republic to pay the costs.

La Pergola Edward Timmermans

Delivered in open court in Luxembourg on 10 May 2001.

R. Grass

Registrar

A. La Pergola

President of the Fourth Chamber