JUDGMENT OF THE COURT
7 May 1987 *

In Case 419/85

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

applicant,

v

Italian Republic, represented by L. Ferrari Bravo, Head of the Department for Contentious Diplomatic Affairs, Treaties and Legislation in the Ministry of Foreign Affairs, acting as Agent, assisted by P. G. Ferri, Avvocato dello Stato, with an address for service in Luxembourg at the Italian Embassy, 5 rue Marie-Adélaïde,

defendant,

APPLICATION for a declaration that by failing to implement Council Directive 80/1263 of 4 December 1980 on the introduction of a Community driving licence (Official Journal 1980, L 375, p. 1) the Italian Republic has failed to fulfil its obligations under the EEC Treaty,

THE COURT,

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

Advocate General: C. O. Lenz
Registrar: S. Hackspiel, Administrator

* Language of the Case: Italian.

having regard to the Report for the Hearing and further to the hearing on 29 January 1987,

after hearing the Opinion of the Advocate General delivered at the sitting on 19 February 1987,

gives the following

Judgment

1 By application lodged at the Court Registry on 13 December 1985, the Commission of the European Communities brought an action under Article 169 of the EEC Treaty for a declaration that by failing to adopt in the period prescribed all the provisions needed to comply with Council Directive 80/1263 of 4 December 1980 on the introduction of a Community driving licence the Italian Republic has failed to fulfil its obligations under the EEC Treaty.

2 Articles 1 to 4 of the directive, which according to its preamble is only a first stage in harmonization intended to culminate in the establishment of a Community driving licence, introduced a Community model for national driving licences; Article 8 lays down rules for the mutual recognition and exchange of national driving licences by holders transferring their place of residence from one Member State to another. Article 6 constitutes an initial harmonization of the rules governing the issue of licences. Article 6 (1) (a) states that a driving licence is to be issued only to applicants who have passed a practical and theoretical test and who meet medical standards, the minimum requirements of which may not be substantially less stringent than those set out in Annexes II and III to the directive.

3 Article 12 of the directive provides:

'1. After consulting the Commission, Member States shall, in good time and at the latest by 30 June 1982, adopt the laws, regulations or administrative provisions necessary for the implementation of this directive from 1 January 1983.

2. However, a Member State may, without prejudice to the application of the other provisions in this directive, decide not to issue Community model driving licences until a later date, which may not be later than 1 January 1986.

. . .'.

4 The Commission considers that the Italian Republic has not adopted all the provisions needed to implement the directive. Thus, under current Italian legislation, the issue of a driving licence for motor cycles is not subject to a mandatory practical test; the duration of practical tests, which according to Annex II to the directive may not be less than 20 minutes, is left to the examiner's discretion; finally, Italian legislation does not preclude, as required by Annex III to the directive, the issue or renewal without a prior medical opinion of a driving licence for applicants suffering from medical disabilities listed in the annex.

5 The Italian Government asks the Court to dismiss the action as inadmissible or in any event unfounded.

6 Reference is made to the Report for the Hearing for the provisions of the directive and the submissions and arguments of the parties, which are mentioned hereinafter only in so far as is necessary for the reasoning of the Court.

Admissibility

7 In support of its objection of inadmissibility the Italian Government alleges that the action is premature, inasmuch as Article 12 (2) allows Member States to postpone implementation of part of the directive. Article 6 (2) of the directive allows Member States to retain some of their provisions relating to the issue of licences and Article 9 allows derogation from several other provisions of the

directive. The Italian Republic has already implemented a central provision of the directive by adopting on 18 June 1984 a circular relating to the exchange of Italian and foreign driving licences. In those circumstances it is in any event unjustified for the Commission to seek a general declaration that the Italian Republic has failed to implement the directive as a whole.

8 It must be observed that although the Commission claims that the Italian Republic has not adopted 'all the laws, regulations and administrative measures needed to comply with the directive' that expression does not mean that it is complaining that no measures have been adopted to that end. On the contrary, in its application the Commission expressly admits that the aforementioned circular of 18 June 1984 constitutes partial application of the directive. It is clear both from the reasoned opinion and from the application that the proceedings are directed against the failure of the Italian Republic to implement the provisions of Article 6 (1) (a) and Annexes II and III and that it is not concerned either with the provisions of Articles 6 (2) and 9 or with the issue of the model Community driving licence, the latter being the only measure whose implementation may be postponed by Member States pursuant to Article 12 (2).

9 It follows that the objection of inadmissibility made by the Italian Government must be rejected.

Substance

10 The Italian Government does not deny, with regard to the issues raised by the Commission, that Italian legislation does not fully comply with the provisions of the directive and its annexes. It says that a draft law on the matter was put before the Italian Parliament on 5 June 1985 and is at present being considered by it. With regard more particularly to the mandatory practical test for the issue of driving licences for motor cycles it observes that such a measure presupposes technical facilities which the competent administrative departments do not have at present. With regard to the medical standards for the issue of driving licences it argues that Article 6 (1) (a) of the directive requires Member States only to apply standards which are not substantially less stringent than those laid down in Annex III to the directive and that the Commission has not shown in what way the Italian

provisions at present in force are substantially less stringent than those of the directive.

11 The Court has consistently held that a Member State may not rely on provisions, practices or situations in its national legal system in order to justify failure to comply with the obligations and time-limits laid down by directives.

12 With regard to the medical standards it must be observed that in its reasoned opinion and in its application to the Court the Commission pointed out that the Italian legislation does not expressly provide that a driving licence may not be issued or renewed without a medical opinion where applicants are suffering from cardiovascular diseases, severe endocrine disorders, diseases of the nervous system, mental disorders and serious diseases of the blood. In those circumstances it is for the Italian Government to explain how the Italian medical standards may be considered not to be substantially less stringent than those laid down on the said matters in Annex III to the directive. The Italian Government has given no such explanation.

13 It follows from the foregoing that the arguments put forward by the Italian Government cannot be accepted. However, the extent of the failure of the Italian Republic to fulfil its obligations must be defined in the light of the particulars contained in the Commission's application.

14 There must in consequence be a declaration that by failing to adopt within the prescribed period the laws, regulations and administrative measures needed in order to comply with Article 6 (1) (a) of Council Directive 80/1263 of 4 December 1980 on the introduction of a Community driving licence and with Annexes II and III to that directive the Italian Republic has failed to fulfil its obligations under the EEC Treaty.

Costs

15 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 prescribed period the laws, regulations and administrative measures needed in order to comply with Article 6 (1) (a) of Council Directive 80/1263 of 4 December 1980 on the introduction of a Community driving licence and with Annexes II and III to that directive the Italian Republic has failed to fulfil its obligations under the EEC Treaty;**

(2) **The Italian Republic is ordered to pay the costs.**

Mackenzie Stuart O'Higgins Schockweiler

Bosco Koopmans Bahlmann Joliet

Delivered in open court in Luxembourg on 7 May 1987.

P. Heim
Registrar

A. J. Mackenzie Stuart
President