OPINION OF ADVOCATE GENERAL SIR GORDON SLYNN
delivered on 9 July 1986

My Lords,

On 10 November 1981 the Court gave judgment in Cases 28/81 and 29/81 both entitled *Commission* v *Italy* at [1981] ECR 2577 and 2585 respectively. In the former it held that Italy was in breach of its obligations under the EEC Treaty in that it had failed to implement Council Directive 74/561 on the admission to the occupation of road haulage operator in national and international transport operations (Official Journal 1974, L 308, p. 18) and in the latter case that Italy had failed to implement Council Directive 74/562 on admission to the occupation of road passenger transport operator in national and international transport operations (Official Journal 1974, L 308, p. 23).

Two years later, after a number of attempts to find out whether anything had been done to implement the judgments of the Court, the Commission initiated the procedures under Article 169 of the Treaty. Having received no information to the effect that the judgments of the Court had been complied with this application was brought on 22 May 1985 asking for a declaration that Italy had failed to fulfil its obligations under Article 171 of the EEC Treaty. In Italy's defence and in a letter of 3 May 1986 in answer to a question from the Court, it appeared that a draft law implementing Directive 74/561 had been considered by a previous Parliament, which had been dissolved before the law was adopted, and that two proposals were at that stage before the Parliament; there was also a draft before the Italian Parliament to implement Directive 74/562.

Even today, although the matter has proceeded some way and the draft is now before the Senate, that legislation has not been implemented.

This is a plain case in which regrettably Italy has failed to comply with the judgments of the Court after almost five years. It is clear that an order should be made in the terms that by failing to implement Council Directives 74/561 and 74/562 in compliance with the judgments of the Court, Italy is in breach of Article 171 of the EEC Treaty. Italy should pay the costs of the Commission in this case.