JUDGMENT OF THE COURT
27 April 1988 *

In Case 225/86

Commission of the European Communities, represented by A. Prozzillo, Legal Adviser to the Commission, and E. Traversa, a member of its Legal Department, acting as Agents, with an address for service in Luxembourg at the office of G. Kremlis, also a member of its Legal Department, Jean Monnet Building, Kirchberg,

applicant,

v

Italian Republic, represented by Luigi Ferrari Bravo, Head of the Department for Contentious Diplomatic Affairs, acting as Agent, assisted by Ivo M. Braguglia, 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 comply with the judgment of the Court in Case 166/82 (*Commission of the European Communities* v *Italian Republic* ECR 459) concerning the formation of the producer sale price for milk, the Italian Republic has failed to fulfil its obligations under the EEC Treaty,

THE COURT

composed of: G. Bosco, President of Chamber, acting as President of the Court, O. Due (President of Chamber), T. Koopmans, C. Kakouris, R. Joliet, T. F. O'Higgins and F. Schockweiler, Judges,

Advocate General: C. O. Lenz
Registrar: D. Louterman, Administrator

* Language of the Case: Italian.

having regard to the Report for the Hearing and further to the hearing on 21 October 1987,

after hearing the Opinion of the Advocate General delivered at the sitting on 21 October 1987,

gives the following

Judgment

1 By application lodged at the Court Registry on 20 August 1986, the Commission of the European Communities brought an action before the Court under Article 169 of the EEC Treaty for a declaration that, by failing to comply with the judgment given by the Court on 7 February 1984 (in Case 166/82 *Commission* v *Italian Republic* [1984] ECR 459), the Italian Republic has failed to fulfil its obligations under Article 171 of the Treaty.

2 In that judgment the Court declared that: '... by adopting and maintaining in force Law No 306 of 8 July 1975, the Italian Republic has failed to fulfil its obligations under Regulation No 804/68 of the Council of 27 June 1968 on the common organization of the market in milk and milk products, in so far as Article 10 of the said law provides that the Regional Authority is to convene the parties concerned with a view to negotiating the producer price for milk and that the price agreed upon must be published in the Regional Official Gazette and in so far as Article 11 provides that, in the absence of agreement, the price is to be fixed by a committee appointed by the Chairman of the Regional Authority'.

3 Since it received only a telex, dated 7 June 1984, from the Permanent Representative of the Italian Republic informing it that a new law taking account of the Court's judgment was in preparation, the Commission sent the Italian Government on 1 July 1985 formal notice requesting it to submit its observations.

4 Since at a bilateral meeting in February 1986 the Italian Government was still unable to give a date for the entry into force of the new law, the Commission sent it on 13 May 1986 a reasoned opinion under Article 169 of the Treaty. When no reply to the reasoned opinion was received, the Commission brought the present action.

5 Reference is made to the Report for the Hearing for a fuller account of the background to the case and the submissions and arguments of the parties, which are mentioned or discussed hereinafter only in so far as is necessary for the reasoning of the Court.

6 The Italian Government stated that, in order to bring to an end the failure to fulfil its obligations, it had initially tabled an amendment to a bill already laid before the Italian Parliament, but that it later withdrew the amendment in order not to delay approval of the bill in question. Subsequently, a separate bill intended to bring the failure to fulfil its obligations to an end was laid before Parliament, adopted by the Chamber of Deputies in February 1987 and transmitted to the Senate, but the bill had not been definitively passed because of the early dissolution of the chambers.

7 At the hearing the Italian Government's Agent informed the Court that the bill had been re-submitted to the new legislature on 8 October 1987. The Italian Government's Agent also explained that, since the delivery of the judgment of the Court, the Italian Regional Authorities had made no further use of their powers under the legislation which was held in the Court's judgment not to comply with Community law.

8 As the Italian Government itself has acknowledged, proper compliance with the judgment of the Court of 7 February 1984 necessitates the abolition of the legislative provisions referred to in the judgment. Neither the non-use of those provisions nor the mere submission to the Italian Parliament of a bill intended to repeal them is sufficient to bring its failure to fulfil its obligations to an end.

9 Under Article 171 of the Treaty the Italian Republic was under a duty to take the necessary measures to comply with the judgment of the Court. Article 171 does not specify the period within which such measures must be taken. However, the action required to give effect to a judgment must be set in motion immediately and be completed in the shortest possible period; that has not happened in this case, since several years have elapsed since the delivery of the judgment.

10 As regards the problems of parliamentary procedure mentioned by the Italian Government, it must be pointed out that the Court has consistently held that a Member State may not plead provisions, practices or circumstances existing in its internal legal system in order to justify a failure to comply with its obligations under Community law.

11 It must therefore be declared that, by failing to comply with the judgment of the Court of 7 February 1984 (in Case 166/82 *Commission* v *Italian Republic* [1984] ECR 459), the Italian Republic has failed to fulfil its obligations under Article 171 of the Treaty.

Costs

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 failing to comply with the judgment of the Court of 7 February 1984 (in Case 166/82 *Commission* v *Italian Republic* [1984] ECR 459), the Italian Republic has failed to fulfil its obligations under Article 171 of the Treaty;**

2. **Orders the Italian Republic to bear the costs.**

Bosco Due Koopmans

Kakouris Joliet O'Higgins Schockweiler

Delivered in open court in Luxembourg on 27 April 1988.

J.-G. Giraud
Registrar

A. J. Mackenzie Stuart
President