REPORT FOR THE HEARING
delivered in Case 225/86 *

I — Facts and procedure

1. In its judgment of 7 February 1984 in Case 166/82 (*Commission* v *Italian Republic* [1984] ECR 459), dealing with an action brought under Article 169 of the Treaty, the Court declared as follows:

'... by adopting and maintaining in force Law No 306 of 8 July 1985, 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'.

2. In reply to an inquiry by the Commission's departments, the Italian Permanent Representative stated in a telex message of 7 June 1984 that a new law was being prepared to take account of the Court's judgment.

3. By letter of 1 July 1985 the Commission, inferring from the lack of information that the Italian Republic had not yet complied with the Court's judgment, initiated the procedure laid down in Article 169 of the Treaty by requesting the Italian Government to submit its observations to it within one month.

4. By a telex message of 18 October 1985 the Italian Permanent Representative informed the Commission that the Italian Government had tabled an amendment to the bill on production and marketing in the agricultural sector with a view to repealing the offending legislative provisions and that the measure was being examined by the Italian Parliament and should shortly be adopted.

5. At a bilateral meeting in February 1986 to consider a number of instances of infringement and proceedings before the Court, the Italian delegation informed the Commission that, despite all the efforts which had been made to expedite the adoption of the amendment by the Parliament, the Italian Government was unable to state on what date the new law would enter into force.

6. Consequently, by a letter of 13 May 1986 the Commission sent the Italian Government a reasoned opinion as provided for in Article 169 of the Treaty. In that opinion the Commission stated that, by failing to comply with the Court's judgment of 7 February 1984, the Italian Government had failed to fulfil its obligations under Article 171 of the Treaty. In addition, the Commission requested the Italian Republic to take the measures necessary to comply with that opinion within one month.

* Language of the Case: Italian.

7. There was no response to the reasoned opinion.

8. By application lodged at the Court Registry on 20 August 1986, the Commission brought this action. By letter of 9 October 1986 it states that it would not submit a reply.

9. Upon hearing the report of the Judge-Rapporteur and the views of the Advocate General the Court decided to open the oral procedure without any preparatory inquiry.

II — Conclusions of the parties

1. The Commission claims that the Court should:

Declare that, by failing to comply with the judgment of the Court of Justice of the European Communities in Case 166/82 *Commission of the European Communities* v *Italian Republic* [1984] 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;

Order the Italian Republic to pay the costs.

2. The Italian Republic has not submitted formal conclusions to the Court.

III — Submissions and arguments of the parties

1. The Commission observes that the only explanation advanced by the Italian authorities for the delay in giving effect to the judgment is the length of the legislative procedure.

A Member State which has been held to have failed to fulfil an obligation must take all the necessary measures to comply with the Court's judgment, irrespective as to which institutions are responsible for doing so, within the fields covered by their respective powers. Moreover, the implementation of a judgment declaring a Member State to have failed to fulfil its obligations must be initiated immediately after the judgment is delivered and should be brought to a conclusion as rapidly as possible.

The Commission observes that it is not sufficient in order to put an end to the failure to fulfil obligations simply to lay before the national parliament a bill intended to repeal a national provision which is incompatible with Community law.

2. The Italian Government does not contest that it is under an obligation as a result of the Court's judgment of 7 February 1984. In order to comply with that obligation the Italian Government initially tabled an amendment to a bill which had already been laid before the Italian Parliament. That amendment proposed the repeal of Articles 10 and 11 of the law at issue in Case 166/82.

Subsequently, however, that amendment was withdrawn so as to avoid delaying the approval of the bill, which was necessary in order to comply with obligations arising from another judgment of the Court.

The Italian Government has therefore prepared a separate bill to repeal the aforesaid articles. It hopes that the Italian Parliament will give its approval as quickly as possible in order to render the proceedings unnecessary.

O. Due
Judge-Rapporteur