OPINION OF MR ADVOCATE GENERAL DARMON
delivered on 2 July 1991 *

Mr President,
Members of the Court,

1. By this action the Commission seeks a declaration that by failing to take, within the prescribed period, the measures needed to implement Council Directives 85/384/EEC of 10 June 1985 on the mutual recognition of diplomas, certificates and other evidence of formal qualifications in architecture, including measures to facilitate the effective exercise of the right of establishment and freedom to provide services,[1] 85/614/EEC of 20 December 1985 amending, on account of the accession of Spain and Portugal, Directive 85/384/EEC,[2] and 86/17/EEC of 27 January 1986 amending, on account of the accession of Portugal, Directive 85/384/EEC,[3] or in any event by failing to inform the Commission of such measures, the Italian Republic has failed to fulfil its obligations under the EEC Treaty.

2. The Italian Republic was to have implemented those directives by 5 August 1987 at the latest, apart from Article 22 of Directive 85/384, for which an additional period was prescribed, expiring, for that State, on 5 August 1988.

3. The failure to fulfil obligations was not contested by the defendant State, which noted in its written observations that the law laying down 'provisions for the performance of the obligations arising from Italy's membership of the European Community (Community law for 1990)' was adopted on 29 December 1990 and published in Ordinary Supplement No 10 of 12 January 1991 to the *Gazzetta Ufficiale della Repubblica Italiana.* Article 5 of that Law confers on the Government the power to pass decrees containing the provisions needed to transpose the three directives. We learnt at the hearing that the relevant decrees have not yet been adopted and it does not appear that they are to be adopted in the immediate future.

4. In any event, it is not disputed that the Italian Republic has not adopted the measures required by the directives in question, and accordingly, I propose that the Court declare that the Italian Republic has failed to fulfil its obligations[4] and order the defendant State to pay the costs.

* Original language: French.

1 — OJ 1985 L 223, p. 15.

2 — OJ 1985 L 376, p. 1.

3 — OJ 1986 L 27, p. 71.

4 — Clearly, the Court does not have to rule on the Commission's claim in so far as it refers 'in any event' to the failure to communicate measures to the Commission. That is clearly an alternative claim, in case Italy, which had replied neither to the letter of formal notice nor to the reasoned opinion, should nevertheless adopt the measures in question — which is not the case — without informing the Commission of this, as required by Article 31(2) of Directive 85/384.