JUDGMENT OF THE COURT (Sixth Chamber)

21 October 1999 *

In Case C-391/98,

Commission of the European Communities, represented by Maria Condou-Durande, of its Legal Service, acting as Agent, with an address for service in Luxembourg at the office of Carlos Gómez de la Cruz, of its Legal Service, Wagner Centre, Kirchberg,

applicant,

v

Hellenic Republic, represented by Nana Dafniou, Legal Assistant in the Special Department for Community Legal Affairs in the Ministry of Foreign Affairs, and I. Chalkias, Legal Adviser in the Legal Council of State, acting as Agents, with an address for service in Luxembourg at the Greek Embassy, 117 Val Sainte-Croix,

defendant,

APPLICATION for a declaration that, by failing to adopt, within the prescribed period, the laws, regulations and administrative provisions necessary to comply with Council Directive 93/43/EEC of 14 June 1993 on the hygiene of foodstuffs

* Language of the case: Greek.

(OJ 1993 L 175, p. 1), the Hellenic Republic has failed to fulfil its obligations under that directive,

THE COURT (Sixth Chamber),

composed of: P.J.G. Kapteyn, acting as President of the Sixth Chamber, G. Hirsch and H. Ragnemalm (Rapporteur), Judges,

Advocate General: P. Léger,
Registrar: R. Grass,

having regard to the report of the Judge-Rapporteur,

after hearing the Opinion of the Advocate General at the sitting on 10 June 1999,

gives the following

Judgment

1 By application lodged at the Court Registry on 4 November 1998, the Commission of the European Communities brought an action under Article 169 of the EC Treaty (now Article 226 EC) for a declaration that, by failing to adopt within the prescribed period the laws, regulations and administrative provisions necessary to comply with Council Directive 93/43/EEC of 14 June 1993 on the

hygiene of foodstuffs (OJ 1993 L 175, p. 1, hereinafter 'the Directive'), the Hellenic Republic has failed to fulfil its obligations under that directive.

2 Under Article 16 of the Directive, Member States were required to adopt the measures necessary to comply with the Directive not later than 30 months after its adoption, that is to say by 14 December 1995, and immediately to inform the Commission thereof.

3 On 27 February 1996, having received no notification concerning the measures adopted to transpose the Directive into Greek law, and in the absence of any other information indicating that the Hellenic Republic had fulfilled its obligation to do so, the Commission initiated the procedure laid down in Article 169 of the Treaty by sending the Greek Government a letter calling on it to submit its observations within a period of two months.

4 The Greek Government replied to the Commission by letter of 14 May 1996, saying that a proposal for transposing the Directive had been drawn up and that the competent ministers were in the process of finalising it.

5 In the absence of any further information concerning transposition of the Directive, the Commission sent a reasoned opinion to the Hellenic Republic by letter of 23 December 1996, calling on it to take the measures necessary to comply with its obligations under the Directive within two months of its notification.

6 Having received no further communication from the Greek Government regarding the adoption of such measures, the Commission brought the present action.

7 The Greek Government does not dispute that the Directive has not been transposed within the period allowed. Nevertheless, it argues that the competent bodies have already settled the text of a regulation which is shortly to be signed by the competent ministers before being sent for publication in the *Official Journal of the Hellenic Republic.*

8 Since the Directive has not been transposed within the period prescribed therein, the action brought by the Commission is well founded.

9 It must therefore be held that, by failing to adopt within the prescribed period the laws, regulations and administrative provisions necessary to comply with the Directive, the Hellenic Republic has failed to fulfil its obligations thereunder.

Costs

10 Under Article 69(2) of the Rules of Procedure, the unsuccessful party is to be ordered to pay the costs if they have been applied for in the successful party's pleadings. Since the Commission applied for costs and the Hellenic Republic has been unsuccessful, the latter must be ordered to pay the costs.

On those grounds,

THE COURT (Sixth Chamber)

hereby:

1. **Declares that, by failing to adopt within the prescribed period the laws, regulations and administrative provisions necessary to comply with Council Directive 93/43/EEC of 14 June 1993 on the hygiene of foodstuffs, the Hellenic Republic has failed to fulfil its obligations under that directive;**

2. **Orders the Hellenic Republic to pay the costs.**

Kapteyn Hirsch Ragnemalm

Delivered in open court in Luxembourg on 21 October 1999.

R. Grass
Registrar

J.C. Moitinho de Almeida
President of the Sixth Chamber