JUDGMENT OF THE COURT (Sixth Chamber)
5 December 1996 *

In Case C-91/96,

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, also of its Legal Service, Wagner Centre, Kirchberg.

applicant,

v

Hellenic Republic, represented by Ioanna Galani-Maragoudaki, Assistant Special Legal Adviser in the Community Legal Service of the Ministry of Foreign Affairs, and Nana Dafniou, Secretary in the same Service, 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 periods the laws, regulations and administrative provisions necessary to comply with, first, Council Directive 92/118/EEC of 17 December 1992 laying down animal health and public health requirements governing trade in and imports into the Community of products not subject to the said requirements laid down in specific Community rules referred to in Annex A(I) to Directive 89/662/EEC and, as

* Language of the case: Greek.

regards pathogens, to Directive 90/425/EEC (OJ 1993 L 62, p. 49) and, second, Council Directive 93/52/EEC of 24 June 1993 amending Directive 89/556/EEC on animal health conditions governing intra-Community trade in and importation from third countries of embryos of domestic animals of the bovine species (OJ 1993 L 175, p. 21), the Hellenic Republic has failed to fulfil the obligations imposed on it by the Treaty and by those directives,

THE COURT (Sixth Chamber),

composed of: G. F. Mancini, President of the Chamber, J. L. Murray, C. N. Kakouris, P. J. G. Kapteyn and H. Ragnemalm (Rapporteur), Judges,

Advocate General: D. Ruiz-Jarabo Colomer,
Registrar: R. Grass,

having regard to the report of the Judge-Rapporteur,

after hearing the Opinion of the Advocate General at the sitting on 24 October 1996,

gives the following

Judgment

1 By application lodged at the Court Registry on 22 March 1996, the Commission of the European Communities brought an action under Article 169 of the EC Treaty for a declaration that, by failing to adopt within the prescribed periods the laws, regulations and administrative provisions necessary to comply with, first, Council

Directive 92/118/EEC of 17 December 1992 laying down animal health and public health requirements governing trade in and imports into the Community of products not subject to the said requirements laid down in specific Community rules referred to in Annex A(I) to Directive 89/662/EEC and, as regards pathogens, to Directive 90/425/EEC (OJ 1993 L 62, p. 49) and, second, Council Directive 93/52/EEC of 24 June 1993 amending Directive 89/556/EEC on animal health conditions governing intra-Community trade in and importation from third countries of embryos of domestic animals of the bovine species (OJ 1993 L 175, p. 21), the Hellenic Republic had failed to fulfil the obligations imposed on it by the Treaty and by those directives.

2 Under Article 20(1) of Directive 92/118 the Member States were to bring into force the laws, regulations and administrative provisions necessary to comply with Articles 12(2) and 17 of that directive by 1 January 1993 at the latest and with the other provisions before 1 January 1994. Furthermore, in accordance with that provision, they were forthwith to inform the Commission thereof.

3 Under Article 2(1) of Directive 93/52 the Member States were to bring into force the laws, regulations and administrative provisions necessary to comply with that directive before 1 January 1994 and were forthwith to inform the Commission thereof.

4 Since the Commission received no notification of any measures taken by the Hellenic Republic to transpose Directives 92/118 and 93/52 and since there was no other evidence available to it to suggest that that State had complied with its obligation, on 10 February 1994 the Commission sent the Greek Government a letter of formal notice.

5 In the absence of a reply, on 21 September 1994 the Commission issued a reasoned opinion to the Greek Government requesting it to adopt the necessary measures within two months of its notification.

6 Since it had still not been informed of any measures to transpose Directives 92/118 and 93/52, the Commission brought this action.

7 In its application, the Commission points out that, in accordance with Articles 5 and 189 of the EC Treaty, the Hellenic Republic was obliged to transpose Directives 92/118 and 93/52 in full within the prescribed periods.

8 The Hellenic Republic does not dispute that obligation. It states, however, that two draft presidential decrees intended to implement the two directives have been placed before the competent minister for signature.

9 Since Directives 92/118 and 93/52 have not been transposed within the prescribed periods, the action brought in this connection by the Commission is well founded.

10 It must be held accordingly that, by failing to adopt within the prescribed periods the laws, regulations and administrative provisions necessary to comply with Directives 92/118 and 93/52, the Hellenic Republic has failed to fulfil the obligations imposed on it by Articles 20(1) and 2(1) respectively of those directives.

Costs

11 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. The Commission has asked for the Hellenic Republic to be ordered to pay the costs. Since the defendant has been unsuccessful, it 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 periods the laws, regulations and administrative provisions necessary to comply with, first, Council Directive 92/118/EEC of 17 December 1992 laying down animal health and public health requirements governing trade in and imports into the Community of products not subject to the said requirements laid down in specific Community rules referred to in Annex A(I) to Directive 89/662/EEC and, as regards pathogens, to Directive 90/425/EEC and, second, Council Directive 93/52/EEC of 24 June 1993 amending Directive 89/556/EEC on animal health conditions governing intra-Community trade in and importation from third countries of embryos of domestic animals of the bovine species, the Hellenic Republic has failed to fulfil the obligations imposed on it by Articles 20(1) and 2(1) respectively of those directives;**

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

Mancini Murray Kakouris

Kapteyn Ragnemalm

Delivered in open court in Luxembourg on 5 December 1996.

R. Grass G. F. Mancini

Registrar President of the Sixth Chamber