JUDGMENT OF THE COURT (Sixth Chamber)
11 July 1996 *

In Case C-304/95,

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 Aikaterini Samoni-Rantou, Special Assistant Legal Adviser in the Community Legal Department of the Ministry of Foreign Affairs, and Nana Dafniou, Secretary in that Department, 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 and notify to the Commission within the prescribed period the laws, regulations and administrative provisions necessary to comply with Council Directive 92/5/EEC of 10 February 1992 amending and updating Directive 77/99/EEC on health problems affecting intra-Community trade in meat products and amending Directive 64/433/EEC (OJ 1992 L 57, p. 1), the Hellenic Republic has failed to fulfil its obligations under the EC Treaty and Directive 92/5,

* Language of the case: Greek.

THE COURT (Sixth Chamber),

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

Advocate General: C. O. Lenz,
Registrar: R. Grass,

having regard to the report of the Judge-Rapporteur,

after hearing the Opinion of the Advocate General at the sitting on 23 May 1996,

gives the following

Judgment

1 By application lodged at the Registry of the Court of Justice on 25 September 1995, the Commission of the European Communities brought an action under Article 169 of the EC Treaty in which it seeks a declaration that, by failing to adopt and notify to it within the prescribed period the laws, regulations and administrative provisions necessary to comply with Council Directive 92/5/EEC of 10 February 1992 amending and updating Directive 77/99/EEC on health problems affecting intra-Community trade in meat products and amending Directive 64/433/EEC (OJ 1992 L 57, p. 1), the Hellenic Republic has failed to fulfil its obligations under the EC Treaty and Directive 92/5.

2 Under Article 3 of Directive 92/5, Member States were required to bring into force the laws, regulations and administrative provisions necessary to comply with the directive not later than 1 January 1993 and forthwith to inform the Commission thereof.

3 Not having been notified of the measures taken to transpose Directive 92/5, and in the absence of any other information to suggest that the Hellenic Republic had complied with that obligation, the Commission sent a letter of formal notice to the Greek Government on 12 March 1993.

4 Since no reply to that letter was forthcoming, the Commission, on 3 June 1994, sent a reasoned opinion to the Greek Government requesting it to adopt the measures necessary for compliance within a two-month period.

5 In the absence of any notification within the prescribed period of the measures taken to transpose Directive 92/5, the Commission brought the present action.

6 In its application, the Commission submits that the Hellenic Republic was required under Articles 5 and 189 of the Treaty and Article 3 of Directive 92/5 to transpose the latter in full within the prescribed period and forthwith to inform it thereof.

7 The Hellenic Republic does not deny that Directive 92/5 was not transposed within the prescribed period. It submits simply that the draft Presidential Decree drawn up for that purpose has been placed before the Council of State for final examination prior to being submitted for signature and published.

8 Since Directive 92/5 was not transposed within the prescribed period, the action brought in that regard by the Commission must be regarded as being well founded.

9 It must for that reason be held that, by failing to adopt within the prescribed period the laws, regulations and administrative provisions necessary to comply with Directive 92/5, the Hellenic Republic has failed to fulfil its obligations under Article 3 thereof.

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 has applied for costs to be awarded against the Hellenic Republic, and since the latter has failed in its submissions, the Hellenic Republic 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 92/5/EEC of 10 February 1992 amending and updating Directive 77/99/EEC on health problems affecting intra-Community trade in meat products and amending Directive 64/433/EEC, the Hellenic Republic has failed to fulfil its obligations under Article 3 of Directive 92/5;**

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

Kakouris Kapteyn Ragnemalm

Delivered in open court in Luxembourg on 11 July 1996.

R. Grass

Registrar

C. N. Kakouris

President of the Sixth Chamber