JUDGMENT OF THE COURT
20 February 1986 *

In Case 309/84

Commission of the European Communities, represented by Alberto Prozzillo, a member of its Legal Department, acting as Agent, with an address for service in Luxembourg at the office of Georges Kremlis, Jean Monnet Building, Kirchberg,

applicant,

v

Italian Republic, represented by Luigi Ferrari Bravo, Head of the Department for Contentious Diplomatic Affairs, acting as Agent, with an address for service in Luxembourg at the Italian Embassy,

defendant,

APPLICATION for a declaration that, by delaying the payment of premiums due under the scheme introduced by Council Regulation (EEC) No 456/80 of 18 February 1980 on the granting of temporary and permanent abandonment premiums in respect of certain areas under vines and of premiums for the renunciation of replanting (Official Journal 1980, L 57, p. 16), the Italian Republic has failed to fulfil its obligations under the EEC Treaty,

THE COURT

composed of: Lord Mackenzie Stuart, President, U. Everling and K. Bahlmann (Presidents of Chambers), T. Koopmans, O. Due, Y. Galmot and C. Kakouris, Judges,

Advocate General: P. VerLoren Van Themaat
Registrar: P. Heim

after hearing the Opinion of the Advocate General delivered at the sitting on 11 December 1985,

gives the following

* Language of the Case: Italian.

JUDGMENT

(The account of the facts and issues which is contained in the complete text of the judgment is not reproduced)

Decision

1 By application lodged at the Court Registry on 21 December 1984 the Commission of the European Communities brought an action before the Court under Article 169 of the EEC Treaty for a declaration that, by delaying the payment of premiums due under Articles 4 (6) and 8 (2) of Council Regulation (EEC) No 456/80 of 18 February 1980 on the granting of temporary and permanent abandonment premiums in respect of certain areas under vines and of premiums for the renunciation of replanting (Official Journal 1980, L 57, p. 16), the Italian Republic had failed to fulfil its obligations under that regulation.

2 Regulation No 456/80, which is designed to increase efforts to reduce Community wine-growing potential, introduced a special scheme providing for premiums for the temporary or permanent abandonment of certain areas under vines and for premiums for the renunciation of replanting.

3 Article 3 (1) of that regulation provides that applications for premiums must be lodged with the departments to be designated by the Member States:

(i) as regards the temporary abandonment premium, before 31 December following the start of the wine-growing year during which the vines were grubbed up,

(ii) as regards the permanent abandonment premium, before 31 December of each wine-growing year referred to in the second subparagraph of Article 2 (2).

The second subparagraph of Article 2 (2) determines the wine-growing years during which the premium may be granted.

4 As regards temporary or permanent abandonment, Article 4 (6) provides that the amount of the premium 'shall be paid in a single payment not more than six months after the applicant has furnished evidence that grubbing up has in fact taken place' or 'after the declaration referred to in Article 3 (3) has been deposited'. In such a written declaration the applicant must undertake not to plant any new vines and to declare the area under vines which is in production.

5 As regards the renunciation of replanting on certain areas under vines, Article 8 (2) of Regulation No 456/80 provides that the amount of the premium is also to be 'paid in a single payment not more than six months after the renunciation has been established and formalized'.

6 Regulation No 456/80 entered into force in 1 March 1980 and applied from 1 September 1980 except in the case of certain premiums for which the date of application was brought forward.

7 By a letter dated 14 July 1983 the Commission informed the Italian Government that during the course of 1982 Italian wine-growers had lodged a complaint with the Commission concerning the Italian authorities' failure to pay the temporary abandonment premium. At the beginning of 1983 a fresh complaint was lodged by Italian wine-growers concerning the failure to pay the permanent abandonment premium.

8 In the same letter the Italian Government was requested to submit its observations on the Commission's view that the Italian Republic had failed to fulfil its obligations by delaying payment of the premiums provided for by Regulation No 456/80. The Commission complained in particular that the funds necessary to pay the premiums had still not been allocated by the Italian Treasury.

9 In the pre-litigation procedure the Commission delivered a reasoned opinion on 14 May 1984. In the opinion it stated that the Italian Government had in fact informed it in the meantime that an agreement had been reached between the Minister of Agriculture and the Treasury on the financing of the premiums due in respect of the 1980/81 and 1981/82 wine-growing years. However, the preparatory legislative procedures, which had to be completed before the premiums could actually be paid, related only to the 1980/81 wine-growing year

and were still not completed. The Commission observed that in those circumstances 'the only conclusion it could draw was that the infringement described in its letter of 14 July 1983 still exists and that the Italian Republic has therefore failed for a long period to fulfil its obligations under Articles 4 (6) and 8 (2) of Regulation (EEC) No 456/80'.

10 In this action the Commission seeks a declaration from the Court confirming what it found in its reasoned opinion, namely that, by delaying payment of the premiums due under the scheme introduced by Regulation No 456/80, the Italian Republic has failed to fulfil its obligations.

11 The Italian Government acknowledges that it had administrative difficulties in covering the expenditure for the 1980/81 and 1981/82 wine-growing years. However, those difficulties were overcome through the adoption of regulations on 11 February and 26 June 1984. It states that the premiums relating to the 1980/81 and 1981/82 wine-growing years were paid in full by the middle of November 1985 and submits that the action is redundant as far as those years are concerned.

12 As far as the 1982/83 and 1983/84 wine-growing years are concerned, the Italian Government observes that 60% and 40% respectively of the premiums due have now been paid and that those still outstanding will be paid as soon as possible. However, since the pre-litigation procedure could not concern those two wine-growing years, the Italian Government submits that the action is inadmissible in that regard.

13 The Commission contests the view taken by the Italian Government with regard to the 1982/83 and 1983/84 wine-growing years. It maintains that the action relates to the delays in the payment of the premiums in question and covers the entire period preceding the action. The past infringement will be repeated in the future if the Italian authorities maintain their administrative practice of waiting for applications for premiums to be submitted before commencing the budgetary procedure.

14 The Commission's application calls for a preliminary observation. The scope of an action brought under Article 169 of the Treaty is limited by the preliminary administrative procedure provided for by that article and by the claims set out in

the application (judgment of 7 February 1984 in Case 166/82, *Commission* v *Italian Republic* [1984] ECR 459), so that it cannot be widened after the preliminary procedure has ended.

15 In the present case, the Commission's allegation that the Italian Republic has failed to fulfil its obligations does not relate to a single act whose effects extend over a long period of time but to delays in the payment of the premiums due in each wine-growing year; those delays involve a separate breach of its obligations in each year. It was therefore necessary that the Italian Republic should have the opportunity in the pre-litigation procedure of submitting its defence with regard to each of the alleged breaches of its obligations.

16 It is clear from the foregoing that the letter dated 14 July 1983 giving formal notice to the Italian Government concerned only the delays in payment in the 1980/81 and 1981/82 wine-growing years. The Italian Government has therefore had no opportunity in the pre-litigation procedure to submit its observations on the delays in payment relating to the 1982/83 and following wine-growing years. Those delays cannot therefore be considered in the present proceedings.

17 The scope of the dispute having been defined in those terms, it is clear and undisputed by the Italian Government that it has not met its obligations under Regulation No 456/80. According to established case-law, a Member State may not plead provisions, practices or circumstances existing in its internal legal or financial system to justify a failure to comply with obligations and time-limits laid down in Community law.

18 It is also clear from the case-law of the Court that, even if the breach was remedied after the expiry of the time-limit laid down by the Commission under the second paragraph of Article 169, there is still an interest in continuing the proceedings; that interest may consist in establishing a basis for the liability which a Member State may incur, in particular, towards individuals as a result of the breach of its obligations (judgment of 7 February 1973 in Case 39/72, *Commission* v *Italian Republic* [1973] ECR 101).

19 It must therefore be held that, by delaying the payment of premiums due under Articles 4 (6) and 8 (2) of Council Regulation No 456/80 of 18 February 1980 on

the granting of temporary and permanent abandonment premiums in respect of certain areas under vines and of premiums for the renunciation of replanting, the Italian Republic has failed to fulfil its obligations under that regulation.

Costs

20 According to Article 69 (2) of the Rules of Procedure, the unsuccessful party must be ordered to pay the costs. Since the defendant has failed in the main part of its submissions, it must be ordered to pay the costs.

On those grounds,

THE COURT

hereby:

(1) Declares that, by delaying the payment of premiums due under Articles 4 (6) and 8 (2) of Council Regulation No 456/80 of 18 February 1980 on the granting of temporary and permanent abandonment premiums in respect of certain areas under vines and of premiums for the renunciation of replanting, the Italian Republic has failed to fulfil its obligations under that regulation;

(2) Orders the Italian Republic to pay the costs.

Mackenzie Stuart Everling Bahlmann

Koopmans Due Galmot Kakouris

Delivered in open court in Luxembourg on 20 February 1986.

P. Heim
Registrar

A. J. Mackenzie Stuart
President