JUDGMENT OF THE COURT (Third Chamber)

20 September 2001 *

In Case C-468/00,

Commission of the European Communities, represented by B. Mongin, acting as Agent, with an address for service in Luxembourg,

applicant,

v

French Republic, represented by G. de Bergues and S. Pailler, acting as Agents, with an address for service in Luxembourg,

defendant,

APPLICATION for a declaration that, by failing to adopt the laws, regulations and administrative measures necessary to comply with Council Directive 96/50/EC of 23 July 1996 on the harmonisation of the conditions for obtaining national boatmasters' certificates for the carriage of goods and passengers by inland waterways in the Community (OJ 1996 L 235, p. 31), or, in any event, by not

* Language of the case: French.

notifying them to the Commission, the French Republic has failed to fulfil its obligations under that directive,

THE COURT (Third Chamber),

composed of: C. Gulmann, President of the Chamber, J.-P. Puissochet and J.N. Cunha Rodrigues (Rapporteur), Judges,

Advocate General: C. Stix-Hackl,

Registrar: R. Grass,

having regard to the report of the Judge-Rapporteur,

after hearing the Opinion of the Advocate General at the sitting on 31 May 2001,

gives the following

Judgment

1 By application lodged at the Registry of the Court on 22 December 2000, the Commission of the European Communities brought this action under Article 226

EC for a declaration that, by failing to adopt the laws, regulations and administrative measures necessary to comply with Council Directive 96/50/EC of 23 July 1996 on the harmonisation of the conditions for obtaining national boatmasters' certificates for the carriage of goods and passengers by inland waterways in the Community (OJ 1996 L 235, p. 31) (hereinafter 'the Directive'), or, in any event, by not notifying them to the Commission, the French Republic has failed to fulfil its obligations under the Directive.

2 Under the first subparagraph of Article 13(1) of the Directive the Member States were to bring into force, not later than 18 months after the date of its entry into force, the laws, regulations and administrative measures necessary to comply with the Directive and immediately inform the Commission thereof.

3 In accordance with Article 14 of the Directive it came into force on the 20th day following its publication, on 17 September 1996, in the *Official Journal of the European Communities*.

4 Taking the view that the Directive had not been incorporated into French law within the prescribed period, the Commission commenced the procedure in respect of failure to fulfil Treaty obligations. On 31 January 2000, having sent the French Republic formal notice to submit its observations, the Commission issued a reasoned opinion requesting that Member State to adopt the measures necessary to comply therewith within a period of two months from the date of its notification.

5 According to the information sent to the Commission by the French authorities following the reasoned opinion, the measures necessary to comply with the Directive were to be adopted before the end of the first half of the year 2000.

6 Having received no other information from the French Government, the Commission decided to commence the present action.

7 The Commission points out that the mandatory nature of the third paragraph of Article 249 EC and the first paragraph of Article 10 EC requires the Member States to adopt, within the prescribed period, the measures necessary to implement directives in their national legal order and immediately communicate such measures to the Commission. That requirement is mentioned in Article 13 of the Directive. However, the French Republic has not taken those measures and, therefore, has not communicated them to the Commission.

8 The French Republic states that the delay in implementing the Directive is due to the necessity radically to amend the qualifications for boatmasters' certificates for inland navigation. That task could not be carried out without consulting widely with the professional bodies and authorities concerned. According to the French Republic, a draft decree concerning boatmasters' certificates for inland navigation should shortly be sent to the Conseil d'État (Council of State) for consideration. The implementation of the Directive will, moreover, necessitate the adoption of an order applying the said decree, accompanied by numerous annexes. Some draft texts intended to implement the Directive in French law are annexed to the defence.

9 It is noted that the French Republic does not deny that it has not adopted the implementing measures necessary to comply with the Directive.

10 Moreover, in accordance with the settled case-law of the Court, a Member State may not plead provisions, practices or circumstances existing in its internal legal system in order to justify a failure to comply with the obligations and time-limits laid down in a directive (see, among others, Case C-166/97 *Commission* v *France* [1999] ECR I-1719, paragraph 13).

11 Since the Directive has not been implemented within the prescribed period, the Commission's action must be regarded as well founded.

12 Therefore, by failing to adopt, within the prescribed period, the laws, regulations and administrative measures necessary to comply with the Directive, the French Republic has failed to fulfil its obligations under the Directive.

Costs

13 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 and the French Republic has been unsuccessful, the latter must be ordered to pay the costs.

On those grounds,

THE COURT (Third Chamber)

hereby:

1. Declares that, by failing to adopt, within the prescribed period, the laws, regulations and administrative measures necessary to comply with Council Directive 96/50/EC of 23 July 1996 on the harmonisation of the conditions for obtaining national boatmasters' certificates for the carriage of goods and passengers by inland waterways in the Community, the French Republic has failed to fulfil its obligations under that directive;

2. Orders the French Republic to pay the costs.

Gulmann Puissochet Cunha Rodrigues

Delivered in open court in Luxembourg on 20 September 2001.

R. Grass

Registrar

C. Gulmann

President of the Third Chamber