JUDGMENT OF THE COURT

30 April 1986 *

In Case 158/85

Commission of the European Communities, represented by Sergio Fabro, 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, assisted by P. G. Ferri, avvocato dello Stato, with an address for service in Luxembourg at the Italian Embassy,

defendant,

APPLICATION for a declaration that, by failing to adopt within the prescribed period the measures necessary to comply with Council Directive 81/177/EEC of 24 February 1981 on the harmonization of procedures for the export of Community goods (Official Journal 1981, L 83, p. 40) and Commission Directive 82/347/EEC of 23 April 1982 laying down certain provisions for implementing Council Directive 81/177/EEC (Official Journal 1982, L 156, p. 1), the Italian Republic has failed to fulfil its obligations under the EEC Treaty,

THE COURT

composed of: Lord Mackenzie Stuart, President, T. Koopmans, K. Bahlmann and R. Joliet, Presidents of Chambers, G. Bosco, C. Kakouris, T. F O'Higgins, F. Schockweiler and G. C. Rodríguez Iglesias, Judges,

Advocate General: J. Mischo
Registrar: D. Louterman, Administrator

after hearing the Opinion of the Advocate General delivered at the sitting on 6 March 1986,

* Language of the Case: Italian.

gives the following

JUDGMENT

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

Decision

1 By an application lodged at the Court Registry on 24 May 1985 the Commission of the European Communities brought an action before the Court under Article 169 of the EEC Treaty for a declaration that, by failing to adopt within the prescribed period the measures necessary to implement Council Directive 81/177/EEC of 24 February 1981 on the harmonization of procedures for the export of Community goods (Official Journal 1981, L 83, p. 40) and Commission Directive 82/347/EEC of 23 April 1982 laying down certain provisions for implementing Council Directive 81/177/EEC (Official Journal 1982, L 156, p. 1), the Italian Republic had failed to fulfil its obligations under the EEC Treaty.

2 Article 22 of Directive 81/177 and Article 16 of Directive 82/347 provide that the Member States must adopt the laws or regulations, or take the administrative action, necessary for implementing those directives before 1 January 1983 and must inform the Commission of such measures.

3 Since the Commission received no such information from the Italian Government, it initiated the procedure provided for in Article 169. Neither its letter of 14 November 1983 requesting the Italian Republic to submit its observations nor the reasoned opinion of 7 February 1985 elicited a reply from the Italian authorities. Consequently, the Commission brought this action on 24 May 1985 for a declaration that the Italian Republic had failed to fulfil its obligations.

4 The Italian Government does not deny the facts alleged by the Commission but maintains that the full and faithful transposition into national law of the directives in question makes it necessary to adopt measures requiring amendments to some provisions of the consolidated customs laws in force. For that purpose a working

party was set up by Decree of the Minister of Finance of 14 June 1985. In carrying out that difficult task it was also necessary to take into account the relevant changes recently made by Decree No 254 of the President of the Republic of 8 May 1985, which implemented Directive 83/643/EEC on the facilitation of physical inspections and administrative formalities in respect of the carriage of goods between Member States (Official Journal 1985, L 359, p. 8).

5 In its reply the Commission points out that the failure to implement the directive does not make the work of revising the consolidated customs laws any easier. The recent setting-up of a working party also shows that the problem will not be resolved in the immediate future. The fact that Directive 83/643 has been implemented has no effect whatsoever on the foregoing observations, since its subject-matter is not exactly the same.

6 The Italian Government did not lodge a rejoinder. At the hearing, it admitted that, despite its firm intention to bring the procedure initiated to implement the directives to a rapid conclusion, it was not yet in a position to confirm that this had been done.

7 It should be recalled that the Court has consistently held that a Member State cannot plead provisions, practices or circumstances existing in its internal legal system in order to justify a failure to comply with obligations and time-limits laid down in directives.

8 It follows from the foregoing that, by failing to adopt within the prescribed periods the measures provided for in Council Directive 81/177/EEC of 24 February 1981 and Commission Directive 82/347/EEC of 23 April 1982, the Italian Republic has failed to fulfil its obligations under the EEC Treaty.

Costs

9 According to Article 69 (2) of the Rules of Procedure, the unsuccessful party is to be ordered to pay the costs. As the defendant has failed in its submissions, it must be ordered to pay the costs.

On those grounds,

THE COURT

hereby:

(1) Declares that, by failing to adopt within the prescribed periods the measures provided for in Council Directive 81/177/EEC of 24 February 1981 on the harmonization of procedures for the export of Community goods (Official Journal 1981, L 83, p. 40) and Commission Directive 82/347/EEC of 23 April 1982 laying down certain provisions for implementing Council Directive 81/177/EEC (Official Journal 1982, L 156, p. 1), the Italian Republic has failed to fulfil its obligations under the EEC Treaty.

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

Mackenzie Stuart Koopmans Bahlmann Joliet

Bosco Kakouris O'Higgins Schockweiler Rodríguez Iglesias

Delivered in open court in Luxembourg on 30 April 1983.

P. Heim
Registrar

A. J. Mackenzie Stuart
President