JUDGMENT OF THE COURT
29 June 1993 *

In Case C-316/92,

Commission of the European Communities, represented by Ingolf Pernice, of its Legal Service, acting as Agent, with an address for service in Luxembourg at the office of Nicola Annecchino, of the Commission's Legal Service, Wagner Centre, Kirchberg,

applicant,

v

Federal Republic of Germany, represented by Ernst Röder, Ministerialrat at the Federal Ministry of Economic Affairs, and by Claus-Dieter Quassowski, Regierungsdirektor at the same Ministry, acting as Agents, Bundesministerium für Wirtschaft, Villemombler Straße 76, D-W-5300 Bonn 1,

defendant,

APPLICATION for a declaration that, by failing to adopt the laws, regulations and administrative measures needed to comply with Council Directive 87/540/EEC of 9 November 1987 on access to the occupation of carrier of goods by waterway in national and international transport and on the mutual recognition of diplomas, certificates and other evidence of formal qualifications for this occupation (OJ 1987 L 322, p. 20), the Federal Republic of Germany has failed to fulfil its obligations under the EEC Treaty,

* Language of the case: German.

THE COURT,

composed of: C. N. Kakouris, President of the Fourth and Sixth Chambers, acting for the President, M. Zuleeg and J. L. Murray (Presidents of Chambers), G. F. Mancini, F. A. Schockweiler, J. C. Moitinho de Almeida, F. Grévisse, M. Diez de Velasco and P. J. G. Kapteyn, Judges,

Advocate General: G. Tesauro,
Registrar: J.-G. Giraud,

having regard to the report of the Judge-Rapporteur,

after hearing the Opinion of the Advocate General at the sitting on 26 May 1993,

gives the following

Judgment

1 By application lodged at the Court Registry on 20 July 1992, the Commission brought an action under Article 169 of the EEC Treaty for a declaration that, by failing to adopt the laws, regulations and administrative measures needed to comply with Council Directive 87/540/EEC of 9 November 1987 on access to the occupation of carrier of goods by waterway in national and international transport and on the mutual recognition of diplomas, certificates and other evidence of formal qualifications for this occupation (OJ 1987 L 322, p. 20), the Federal Republic of Germany has failed to fulfil its obligations under the EEC Treaty.

2 Under Article 11 of the directive, 'Member States shall bring into force the measures necessary to comply with this directive by 30 June 1988. They shall forthwith inform the Commission thereof.'

3 The Commission claims that the Federal Republic of Germany failed to fulfil its obligations under Article 11 of the directive in conjunction with the third paragraph of Article 189 and Article 5 of the Treaty by not adopting the measures needed to transpose the directive into national law.

4 The German government does not deny that on the expiry of the time-limit set by that directive, it had not yet transposed the latter into national law. However, it points out that the legislative procedure has almost been completed.

5 Since the directive was not implemented within the time-limit set, the infringement must be established in the terms of the form of order sought by the Commission.

Costs

6 Under Article 69(2) of the Rules of Procedure, the unsuccessful party is to be ordered to pay the costs. Since the Federal Republic of Germany has been unsuccessful, it must be ordered to pay the costs.

On those grounds,

THE COURT

hereby:

1. **Declares that, by failing to adopt the laws, regulations and administrative measures needed to comply with Council Directive 87/540/EEC of 9 November 1987 on access to the occupation of carrier of goods by waterway in national and international transport and on the mutual recognition of diplomas, certificates and other evidence of formal qualifications for this occupation, the Federal Republic of Germany has failed to fulfil its obligations under the EEC Treaty;**

2. **Orders the Federal Republic of Germany to pay the costs.**

Kakouris Zuleeg Murray Mancini

Schockweiler Moitinho de Almeida Grévisse Diez de Velasco Kapteyn

Delivered in open court in Luxembourg on 29 June 1993.

J.-G. Giraud

Registrar

C. N. Kakouris

President of the Fourth and Sixth Chambers,
For the President