JUDGMENT OF THE COURT (Fifth Chamber)
25 October 2001 *

In Case C-460/00,

Commission of the European Communities, represented by M. Wolfcarius and M. Patakia, acting as Agents, with an address for service in Luxembourg,

applicant,

v

Hellenic Republic, represented by N. Dafniou and S. Chala, acting as Agents, with an address for service in Luxembourg,

defendant,

* Language of the case: Greek.

APPLICATION for a declaration that, by not adopting the laws, regulations and administrative provisions necessary to comply fully with Council Directive 96/48/EC of 23 July 1996 on the interoperability of the trans-European high-speed rail system (OJ 1996 L 235, p. 6), or, alternatively, by not communicating them to the Commission, within the prescribed period, the Hellenic Republic has failed to fulfil its obligations under the EC Treaty,

THE COURT (Fifth Chamber),

composed of: S. von Bahr, President of the Fourth Chamber, acting for the President of the Fifth Chamber, D.A.O. Edward, A. La Pergola, L. Sevón (Rapporteur) and C.W.A. Timmermans, Judges,

Advocate General: L.A. Geelhoed,
Registrar: R. Grass,

having regard to the report of the Judge-Rapporteur,

after hearing the Opinion of the Advocate General at the sitting on 12 July 2001,

gives the following

Judgment

1 By application lodged at the Registry of the Court of Justice on 21 December 2000, the Commission of the European Communities brought an action under Article 226 EC for a declaration that, by not adopting the laws, regulations and administrative provisions necessary to comply fully with Council Directive 96/48/EC of 23 July 1996 on the interoperability of the trans-European high-speed rail system (OJ 1996 L 235, p. 6), or, alternatively, by not communicating them to the Commission, within the prescribed period, the Hellenic Republic has failed to fulfil its obligations under the EC Treaty.

2 The purpose of the directive is, in particular, to improve the interlinking and interoperability of national high-speed train networks, as well as access to those networks.

3 Article 23(1) of the directive provides that the Member States are to bring into force, no later than 30 months after its entry into force, the laws, regulations and administrative provisions necessary to comply with the said directive and inform the Commission forthwith.

4 Article 25 of the directive states that it 'shall enter into force on the 21st day following that of its publication in the *Official Journal of the European*

Communities'. As the directive was published on 17 September 1996, it therefore entered into force on 8 October 1996 and the period for its implementation expired on 8 April 1999.

5 In accordance with the procedure under the first paragraph of Article 226 EC, after giving the Hellenic Republic formal notice to submit its observations, the Commission sent that Member State a reasoned opinion by letter of 24 January 2000, calling on it to take the measures necessary to comply with its obligations under the directive within a period of two months from the date of notification of that opinion.

6 Since the Greek Government failed to respond to the complaints set out in the reasoned opinion, the Commission brought the present action.

7 The Commission considers that, by not adopting the measures necessary for the implementation of the directive, the Hellenic Republic has failed to fulfil its obligations under the first paragraph of Article 10 EC and the third paragraph of Article 249 EC.

8 In support of its defence, the Greek Government has submitted a draft Presidential Decree, which has been prepared in order to bring Greek law into conformity with the directive. The procedure for the adoption of that decree has not yet been completed. In its rejoinder, the Greek Government states that the draft has been signed by the Minister for Transport and Communications but it has yet to be signed by the Minister for National Economic Affairs and the Minister for Development. The draft will then be considered by the Council of State and signed by the President of the Republic.

9 The Greek Government states that the reason for the delay in implementing the directive is the need 'to settle questions connected to the fulfilment of essential requirements and to designate the bodies responsible for the EC declaration of conformity procedures'.

10 In that regard, it must be pointed out that, in accordance with settled case-law, 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, *inter alia*, Case C-470/98 *Commission* v *Greece* [2000] ECR I-4657, paragraph 11, and Case C-423/99 *Commission* v *Italy* [2000] ECR I-11167, paragraph 10).

11 Since the Directive was not implemented within the time-limit laid down, the Commission's action must be considered well founded.

12 It must therefore be held that, by not adopting, within the prescribed period, the laws, regulations and administrative provisions necessary to comply fully with the directive, the Hellenic Republic has failed to fulfil its obligations under that 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 Hellenic Republic has been unsuccessful, the latter must be ordered to pay the costs.

On those grounds,

THE COURT (Fifth Chamber)

hereby:

1. Declares that, by not adopting, within the prescribed period, the laws, regulations and administrative provisions necessary to comply fully with Council Directive 96/48/EC of 23 July 1996 on the interoperability of the trans-European high-speed rail system, the Hellenic Republic has failed to fulfil its obligations under that directive.

2. Orders the Hellenic Republic to pay the costs.

La Pergola Edward Sevón

von Bahr Timmermans

Delivered in open court in Luxembourg on 25 October 2001.

R. Grass

Registrar

P. Jann

President of the Fifth Chamber