JUDGMENT OF THE COURT (Sixth Chamber)
15 October 1998 *

In Case C-386/97,

Commission of the European Communities, represented by Maria Condou Durande, of its Legal Service, acting as Agent, with an address for service in Luxembourg at the office of Carlos Gómez de la Cruz, of its Legal Service, Wagner Centre, Kirchberg,

applicant,

v

Hellenic Republic, represented by Nana Dafniou, Legal Assistant in the Special European Community Legal Service of the Ministry of Foreign Affairs, Ioannis Chalkias, Legal Adviser in the State Legal Service, and Foteini Dedousi, Agent for Legal Proceedings in the same Service, acting as Agents, with an address for service in Luxembourg at the Greek Embassy, 117 Val Sainte-Croix,

defendant,

APPLICATION for a declaration that, by failing to adopt within the prescribed period the laws, regulations and administrative provisions necessary to comply with Council Directive 95/23/EC of 22 June 1995 amending Directive 64/433/EEC on conditions for the production and marketing of fresh meat (OJ 1995 L 243, p. 7), the Hellenic Republic has failed to fulfil its obligations under the EC Treaty and that directive,

* Language of the case: Greek.

THE COURT (Sixth Chamber),

composed of: P. J. G. Kapteyn, President of the Chamber, G. Hirsch, G. F. Mancini, H. Ragnemalm and R. Schintgen (Rapporteur), Judges,

Advocate General: A. La Pergola,
Registrar: R. Grass,

having regard to the report of the Judge-Rapporteur,

after hearing the Opinion of the Advocate General at the sitting on 18 June 1998,

gives the following

Judgment

1 By application lodged at the Court Registry on 12 November 1997, the Commission of the European Communities brought an action under Article 169 of the EC Treaty for a declaration that, by failing to adopt within the prescribed period the laws, regulations and administrative provisions necessary to comply with Council Directive 95/23/EC of 22 June 1995 amending Directive 64/433/EEC on conditions for the production and marketing of fresh meat (OJ 1995 L 243, p. 7, hereinafter 'the Directive'), the Hellenic Republic has failed to fulfil its obligations under the EC Treaty and the Directive.

2 Under the first subparagraph of Article 2(1) of the Directive, Member States were to bring into force the laws, regulations and administrative provisions necessary to

comply with the Directive by 1 July 1995 and forthwith to inform the Commission thereof.

3 Since it had not received any communication relating to the transposition of the Directive into Greek law, and had no information to show that the Hellenic Republic had fulfilled that obligation, the Commission gave formal notice to that State by letter of 27 February 1996, calling on it to submit its observations within a period of two months.

4 In the absence of any reply from the Greek authorities, the Commission, on 17 March 1997, sent a reasoned opinion to the Hellenic Republic, calling on it to take the measures necessary to comply with its obligations under the Directive within two months of its notification.

5 By letter of 17 April 1997, the Hellenic Government informed the Commission that, in order to transpose the Directive, it had prepared a draft presidential decree which had been submitted for signature.

6 Having, however, received no communication thereafter regarding the adoption of measures to transpose the Directive, the Commission brought the present proceedings.

7 The Hellenic Republic does not dispute that the Directive was not transposed within the prescribed period.

8 As the Directive was not transposed within the period prescribed therein, the Commission's action must be considered well founded.

9 Accordingly, it must be held that, by failing to adopt within the prescribed period the laws, regulations and administrative provisions necessary to comply with the Directive, the Hellenic Republic has failed to fulfil its obligations under the Directive.

Costs

10 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 applied for costs and the Hellenic Republic has been unsuccessful, the latter must be ordered to pay the costs.

On those grounds,

THE COURT (Sixth Chamber)

hereby:

1) Declares that, by failing to adopt within the prescribed period the laws, regulations and administrative provisions necessary to comply with Council

Directive 95/23/EC of 22 June 1995 amending Directive 64/433/EEC on conditions for the production and marketing of fresh meat, the Hellenic Republic has failed to fulfil its obligations under that directive;

2) Orders the Hellenic Republic to pay the costs.

Kapteyn Hirsch Mancini

Ragnemalm Schintgen

Delivered in open court in Luxembourg on 15 October 1998.

R. Grass P. J. G. Kapteyn

Registrar President of the Sixth Chamber