JUDGMENT OF THE COURT
8 July 1992 *

In Case C-270/91,

Commission of the European Communities, represented by Eugenio de March, Legal Adviser, acting as Agent, with an address for service in Luxembourg at the office of Roberto Hayder, of its Legal Service, Wagner Centre, Kirchberg,

applicant,

v

Italian Republic, represented by Professor Luigi Ferrari Bravo, Head of the Department for Legal Affairs at the Ministry of Foreign Affairs, acting as Agent, assisted by Pier Giorgio Ferri, Avvocato dello Stato, with an address for service in Luxembourg at the Italian Embassy, 5, Rue Marie-Adelaide,

defendant,

APPLICATION for a declaration that, by failing to notify to the Commission the laws, regulations and administrative provisions necessary in order to fulfil the obligations imposed on it by Commission Directive 89/321/EEC of 27 April 1989 amending for the second time the Annexes to Council Directive 77/96/EEC on the examination for Trichinae (Trichinelle spiralis) upon importation from third countries of fresh meat derived from domestic swine (OJ 1989 L 133, p. 33) and Council Directive 89/360/EEC of 30 May 1989 amending Directive 64/432/EEC as regards administrative areas and a cessation of serological testing for brucellosis in certain types of swine (OJ 1989 L 153, p. 29) or by failing to adopt the necessary measures to comply with those directives by the prescribed dates, the Italian Republic has failed to fulfil its obligations under the EEC Treaty,

* Language of the case: Italian.

THE COURT,

composed of: O. Due, President, F. Grévisse and P. J. G. Kapteyn (Presidents of Chambers), G. F. Mancini, C. N. Kakouris, J. C. Moitinho de Almeida, M. Diez de Velasco, M. Zuleeg and D. A. O. Edward, Judges,

Advocate General: M. Darmon,
Registrar: H. von Holstein, Deputy Registrar,

having regard to the report of the Judge-Rapporteur,

after hearing the Opinion of the Advocate General at the sitting on 15 May 1992,

gives the following

Judgment

1 By application lodged at the Court Registry on 15 October 1991, the Commission of the European Communities brought an action under Article 169 of the EEC Treaty for a declaration that, by failing to notify to the Commission the laws, regulations and administrative provisions necessary in order to fulfil the obligations imposed on it by Commission Directive 89/321/EEC of 27 April 1989 amending for the second time the Annexes to Council Directive 77/96/EEC on the examination for Trichinae (Trichinelle spiralis) upon importation from third countries of fresh meat derived from domestic swine (OJ 1989 L 133, p. 33) and Council Directive 89/360/EEC of 30 May 1989 amending Directive 64/432/EEC as regards administrative areas and a cessation of serological testing for brucellosis in certain types of swine (OJ 1989 L 153, p. 29) or by failing to adopt the necessary measures to comply with those directives by the prescribed dates, the Italian Republic has failed to fulfil its obligations under the EEC Treaty.

2 Under Article 2 of Directives 89/321 and 89/360, the Member States are required to bring into force the laws, regulations and administrative provisions necessary to comply with those directives by not later than 1 September 1989 and 1 October 1989 respectively, and to inform the Commission thereof forthwith.

3 Since the Italian Republic had not within the prescribed period made the requisite notification concerning the transposition into domestic law of the two abovementioned directives, the Commission brought an action under Article 169 of the EEC Treaty for a declaration that Italy had failed to fulfil its obligations. The letter before action of 26 June 1990 and the reasoned opinion of 18 March 1991 addressed by the Commission to the Italian Republic remained unanswered.

4 Reference is made to the Report for the Hearing for a fuller account of the facts of the case, the procedure and the pleas and arguments of the parties, which are mentioned or discussed hereinafter only in so far as is necessary for the reasoning of the Court.

5 The Commission submits that owing to the mandatory nature of directives the Member States are obliged to comply with them within the periods prescribed. Furthermore, a Member State may be considered to have complied with all its obligations under a directive only when all the provisions of that directive expressly form part of its legislation.

6 The Italian Republic acknowledges that the directives in question have not been fully transposed within the Italian legal system, but gives no further particulars. It points out that certain decrees to be adopted could remedy the default.

7 Under those conditions, it must be held that, by failing to adopt within the prescribed period the laws, regulations and administrative provisions necessary in order to comply with Commission Directive 89/321/EEC of 27 April 1989 amending for the second time the Annexes to Council Directive 77/96/EEC on the examination for Trichinae (Trichinelle spiralis) upon importation from third countries of fresh meat derived from domestic swine, and with Council Directive 89/360/EEC of 30 May 1989 amending Directive 64/432/EEC as regards administrative areas and a cessation of serological testing for brucellosis in certain types of swine, the Italian Republic has failed to fulfil its obligations under the EEC Treaty.

Costs

8 Under Article 69(2) of the Rules of Procedure, the unsuccessful party is to be ordered to pay the costs. Since the Italian Republic 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 period the laws, regulations and administrative provisions necessary in order to comply with Commission Directive 89/321/EEC of 27 April 1989 amending for the second time the Annexes to Council Directive 77/96/EEC on the examination for Trichinae (Trichinelle spiralis) upon importation from third countries of fresh meat derived from domestic swine, and with Council Directive

89/360/EEC of 30 May 1989 amending Directive 64/432/EEC as regards administrative areas and a cessation of serological testing for brucellosis in certain types of swine, the Italian Republic has failed to fulfil its obligations under the EEC Treaty.

2) Orders the Italian Republic to pay the costs.

Due Grévisse Kapteyn Mancini

Kakouris Moitinho de Almeida Diez de Velasco Zuleeg Edward

Delivered in open court in Luxembourg on 8 July 1992.

J.-G. Giraud
Registrar

O. Due
President