# OPINION OF MR ADVOCATE GENERAL CRUZ VILAÇA
delivered on 25 May 1988 *

*Mr President,*
*Members of the Court,*

1. Commission Directive 84/414/EEC [1] of 18 July 1984 amended, by adapting it to technical progress, Directive 76/764/EEC on the approximation of the laws of the Member States relating to clinical mercury-in-glass maximum-reading thermometers, [2] as amended by Council Directive 83/128/EEC of 28 March 1983. [3]

2. Article 2 of the new directive provided that the Member States were to bring into force the laws, regulations and administrative provisions necessary to comply with it by 1 January 1986 and inform the Commission thereof forthwith.

3. Having received no information from the Italian Republic, on 9 July 1986 the Commission initiated the procedure under Article 169 of the Treaty.

4. The Italian authorities made no reply during the administrative phase, and the Commission therefore brought the present action before the Court for a declaration that by failing to give notice of the measures which it was under a duty to adopt by virtue of that directive, or by failing to adopt such measures, the Italian Republic had failed to fulfil its obligations under the Treaty.

5. In its defence, the Italian Government acknowledged its infringement of the Treaty by failing to transpose the directive, merely stating that it had encountered certain difficulties in doing so in due time and that it was making every effort to ensure that the process was completed as soon as possible.

6. At the hearing the Commission confirmed that, needless to say, it now limited its application to the complaint concerning the failure to adopt the provisions necessary to implement the directive within the prescribed period.

7. It merely remains for me conclude in those terms, in accordance with the previous decisions of the Court, that the Italian Republic has failed to fulfil its obligations under the Treaty and I propose that the Court uphold the Commission's action and order the defendant to pay the costs.

* Translated from the Portuguese.
1 — OJ 1984, L 228, p. 25.
2 — OJ 1976, L 262, p. 139.
3 — OJ 1983, L 91, p. 29.