JUDGMENT OF THE COURT (Sixth Chamber)
12 February 1998 *

In Case C-144/97,

Commission of the European Communities, represented by Richard Wainwright, Principal Legal Adviser, and Jean-Francis Pasquier, a national civil servant on secondment to the Legal Service, acting as Agents, 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

French Republic, represented by Kareen Rispal-Bellanger, Deputy Director of the Legal Affairs Directorate of the Ministry of Foreign Affairs, and Frédéric Pascal, seconded to that directorate from the central administration, acting as Agents, with an address for service in Luxembourg at the French Embassy, 8B Boulevard Joseph II,

defendant,

APPLICATION for a declaration that, by not adopting the laws, regulations and administrative provisions necessary in order to comply with Council Directive 92/74/EEC of 22 September 1992 widening the scope of Directive 81/851/EEC on the approximation of provisions laid down by law, regulation or administrative

* Language of the case: French.

action relating to veterinary medicinal products and laying down additional provisions on homeopathic veterinary medicinal products (OJ 1992 L 297, p. 12), the French Republic has failed to fulfil its obligations under that directive,

THE COURT (Sixth Chamber),

composed of: H. Ragnemalm, President of the Chamber, G. F. Mancini, J. L. Murray (Rapporteur), G. Hirsch and K. M. Ioannou, Judges,

Advocate General: G. Cosmas,
Registrar: R. Grass,

having regard to the Report of the Judge-Rapporteur,

after hearing the Opinion of the Advocate General at the sitting on 6 November 1997,

gives the following

Judgment

1 By application lodged at the Court Registry on 16 April 1997, the Commission of the European Communities brought an action under Article 169 of the EC Treaty for a declaration that, by not adopting the laws, regulations and administrative provisions necessary in order to comply with Council Directive 92/74/EEC of 22 September 1992 widening the scope of Directive 81/851/EEC on the approximation of provisions laid down by law, regulation or administrative action relating to veterinary medicinal products and laying down additional provisions on

homeopathic veterinary medicinal products (OJ 1992 L 297, p. 12; 'the Directive'), the French Republic has failed to fulfil its obligations under the Directive.

2 Under the first subparagraph of Article 10(1) of the Directive the Member States had to bring into force the laws, regulations and administrative provisions needed in order to comply with the Directive by 31 December 1993 and to inform the Commission thereof forthwith.

3 Since the Commission had not received notification of the national measures intended to implement the Directive and did not have any other information enabling it to conclude that the French Republic had complied with its obligations, it gave the French Government formal notice by letter of 10 February 1994 to submit its observations to it within two months.

4 Since the Commission received no reply to that letter, it sent a reasoned opinion to the French Republic on 4 March 1996 in which it repeated the observations contained in the letter. It called on the French Republic to adopt the measures needed in order to comply with the opinion within two months from receipt thereof.

5 The French authorities stated in reply to the reasoned opinion that a draft law, together with a draft decree to be adopted after consultation with the Conseil d'État (Council of State), which were intended to transpose the Directive, had been prepared.

6 Since the Commission was not informed that the procedure which was to result in the adoption of that draft legislation had been completed, it brought this action.

7 The French Republic states in its defence that a draft law and a draft decree transposing the Directive have been drawn up. It adds that the draft law could not be put to a parliamentary vote because, by decree of 21 April 1997, the President of the French Republic decided to dissolve the National Assembly.

8 It is, however, settled case-law that a Member State cannot rely on provisions, practices or circumstances existing in its internal legal order in order to justify its failure to respect the obligations and time-limits laid down by a directive (see, in particular, Case C-208/96 *Commission* v *Belgium* [1997] ECR I-5375, paragraph 9).

9 Since the Directive was not transposed within the period prescribed therein, the infringement pleaded by the Commission in that regard must be considered to be established.

10 It must therefore be held that, by not adopting within the prescribed period the laws, regulations and administrative provisions necessary in order to comply with the Directive, the French Republic has failed to fulfil its obligations under the first subparagraph of Article 10(1) thereof.

Costs

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

On those grounds,

THE COURT (Sixth Chamber),

hereby:

1. **Declares that, by not adopting within the prescribed period the laws, regulations and administrative provisions necessary in order to comply with Council Directive 92/74/EEC of 22 September 1992 widening the scope of Directive 81/851/EEC on the approximation of provisions laid down by law, regulation or administrative action relating to veterinary medicinal products and laying down additional provisions on homeopathic veterinary medicinal products, the French Republic has failed to fulfil its obligations under the first subparagraph of Article 10(1) thereof;**

2. **Orders the French Republic to pay the costs.**

Ragnemalm Mancini Murray

Hirsch Ioannou

Delivered in open court in Luxembourg on 12 February 1998.

R. Grass H. Ragnemalm

Registrar President of the Sixth Chamber