JUDGMENT OF THE COURT
24 November 1987 *

In Case 124/86

Commission of the European Communities, represented by Sergio Fabro, a member of its Legal Department, acting as Agent, with an address for service in Luxembourg at the office of G. Kremlis, also a member of its Legal Department, Jean Monnet Building, Kirchberg,

applicant,

v

Italian Republic, represented by Luigi Ferrari Bravo, Head of the Department for Contentious Diplomatic Affairs, Treaties and Legislative Matters at the Ministry of Foreign Affairs, acting as Agent, assisted by Ivo Braguglia, Avvocato dello Stato, with an address for service in Luxembourg at the Italian Embassy,

defendant,

APPLICATION for a declaration that, by failing to adopt within the prescribed period the provisions necessary to comply with Council Directive 83/183/EEC of 28 March 1983 on tax exemptions applicable to permanent imports from a Member State of the personal property of individuals (Official Journal 1983, L 105, p. 64), the Italian Republic has failed to fulfil its obligations under the EEC Treaty,

THE COURT

composed of: G. Bosco, President of Chamber, acting as President, J. C. Moitinho de Almeida, President of Chamber, T. Koopmans, U. Everling, C. Kakouris, R. Joliet and F. Schockweiler, Judges,

Advocate General: C. O. Lenz
Registrar: B. Pastor, Administrator

* Language of the Case: Italian.

having regard to the Report for the Hearing and further to the hearing on 1 April 1987,

after hearing the Opinion of the Advocate General delivered at the sitting on 1 April 1987,

gives the following

Judgment

1 By an application lodged at the Court Registry on 26 May 1986 the Commission of the European Communities brought an action before the Court under Article 169 of the EEC Treaty for a declaration that, by failing to adopt within the prescribed period the measures necessary to comply with Council Directive 83/183/EEC of 28 March 1983 on tax exemptions applicable to permanent imports from a Member State of the personal property of individuals (Official Journal 1983, L 105, p. 64), the Italian Republic had failed to fulfil its obligations under the EEC Treaty.

2 Article 12 (1) of Directive 83/183/EEC provides that Member States are to bring into force the requisite laws, regulations and administrative provisions by 1 January 1984 at the latest. Article 12 (2) requires Member States to communicate to the Commission the text of the main provisions of national law which they have adopted in the field covered by the directive.

3 Not having received from the Italian Government any communication concerning measures to implement the directive, the Commission sent it on 21 December 1984 a formal notice calling upon it to submit its observations. After delivering a reasoned opinion on 18 July 1985 and after granting three requests made by the Italian Government for extensions of the period it was allowed for complying with the reasoned opinion, so as to enable it to adopt a draft law relating to the directive, the Commission brought the present action.

4 Reference is made to the Report for the Hearing for a fuller account of the facts, the procedure and the submissions 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 Italian Government acknowledges that it has not yet fulfilled its obligations. At the hearing it stated that the draft law designed to implement the directive was before Parliament and had already received the assent of the budgetary committee. The legislative process would continue but political difficulties had prevented it from being completed before the Court hearing.

6 It should be recalled that it is established case-law that 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 obligations and time-limits laid down by directives.

7 It must therefore be concluded that, by failing to adopt within the prescribed period the measures necessary to comply with Council Directive 83/183/EEC of 28 March 1983 on tax exemptions applicable to permanent imports from a Member State of the personal property of individuals, 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 must be ordered to pay the costs. As the defendant 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 provisions necessary to comply with Council Directive 83/183/EEC of 28 March 1983 on tax exemptions applicable to permanent imports from a Member State of the personal property of individuals, the Italian Republic has failed to fulfil its obligations under the EEC Treaty;

(2) Orders the Italian Republic to bear the costs.

Bosco Moitinho de Almeida Koopmans

Everling Kakouris Joliet Schockweiler

Delivered in open court in Luxembourg on 24 November 1987.

Acting as President

P. Heim G. Bosco

Registrar President of Chamber