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

In Case C-284/97,

Commission of the European Communities, represented by Fernando Castillo de la Torre, of its Legal Service, and Olivier Couvert-Castéra, a national civil servant on secondment to that 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, Head of Subdirectorate in the Legal Affairs Directorate of the Ministry of Foreign Affairs, and Frédéric Pascal, Chargé de Mission in that directorate, 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 failing to adopt the laws, regulations and administrative provisions necessary to comply with Council Directive 93/40/EEC of 14 June 1993 amending Directives 81/851/EEC and 81/852/EEC on the approximation of the laws of the Member States relating to veterinary medicinal products (OJ 1993 L 214, p. 31), the French Republic has failed to fulfil its obligations under the EC Treaty and that directive,

* Language of the case: French.

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. Saggio,
Registrar: R. Grass,

having regard to the report of the Judge-Rapporteur,

after hearing the Opinion of the Advocate General at the sitting on 25 June 1998,

gives the following

Judgment

1 By application lodged at the Court Registry on 1 August 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 the laws, regulations and administrative provisions necessary to comply with Council Directive 93/40/EEC of 14 June 1993 amending Directives 81/851/EEC and 81/852/EEC on the approximation of the laws of the Member States relating to veterinary medicinal products (OJ 1993 L 214, p. 31, hereinafter 'the Directive'), the French Republic has failed to fulfil its obligations under the EC Treaty and the Directive.

2 Under the first paragraph of Article 3 of the Directive, Member States were to take all appropriate measures to comply with the Directive, with the exception of Article 1(7), before 1 January 1995 and forthwith to inform the Commission thereof.

3 Since it had not received any communication relating to the transposition of the Directive into French law and had no information to show that the French Republic had fulfilled that obligation, the Commission gave formal notice to that State by letter of 2 August 1995, calling on it to submit its observations within a period of two months.

4 On 25 October 1995 the French Republic informed the Commission that the measures to transpose the Directive were being drafted.

5 However, as it had received no information on the adoption of such measures, the Commission, on 26 September 1996, sent a reasoned opinion to the French Republic, calling on it to comply with its obligations under the Directive within two months of its notification.

6 As no action was taken on that reasoned opinion, the Commission brought the present proceedings.

7 The French 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 French 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 has applied for costs and the French 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 93/40/EEC of 14 June 1993 amending Directives 81/851/EEC and 81/852/EEC on the approximation of the laws of the Member States relating to veterinary medicinal products, the French Republic has failed to fulfil its obligations under that directive;

2) Orders the French Republic to pay the costs.

Kapteyn Hirsch Mancini

Ragnemalm Schintgen

Delivered in open court in Luxembourg on 15 October 1998.

R. Grass

Registrar

P. J. G. Kapteyn

President of the Sixth Chamber