JUDGMENT OF THE COURT
23 March 1994 *

In Case C-268/93,

Commission of the European Communities, represented by Blanca Rodríguez Galindo, a member of its Legal Service, acting as Agent, with an address for service in Luxembourg at the office of Georgios Kremlis, a member of its Legal Service, Wagner Centre, Kirchberg,

applicant,

v

Kingdom of Spain, represented by Alberto Navarro González, Director-General of Community Legal and Institutional Coordination, and Miguel Bravo-Ferrer Delgado, Abogado del Estado, acting as Agents, with an address for service in Luxembourg at the Spanish Embassy, 4-6 Boulevard E. Servais,

defendant,

APPLICATION for a declaration that, by failing to give notice to the Commission of the laws, regulations and administrative provisions needed to give effect to Council Directive 88/320/EEC of 9 June 1988 on the inspection and verification of

* Language of the case: Spanish.

Good Laboratory Practice (GLP) (Official Journal 1988 L 145, p. 35), or by failing to adopt the measures needed to give effect to it, the Kingdom of Spain has failed to fulfil its obligations under the EEC Treaty,

THE COURT,

composed of: G. F. Mancini, President of Chambers, acting as President, J. C. Moitinho de Almeida, D. A. O. Edward, (Presidents of Chambers), R. Joliet, F. A. Schockweiler, G. C. Rodríguez Iglesias, F. Grévisse, M. Zuleeg (Rapporteur), J. L. Murray, Judges,

Advocate General: M. Darmon,
Registrar: R. Grass

having regard to the report of the Judge-Rapporteur,

after hearing the Opinion of the Advocate General at the sitting on 8 February 1994,

gives the following

Judgment

1 By application lodged at the Court Registry on 4 May 1993, the Commission of the European Communities brought an action under Article 169 of the EEC Treaty for a declaration that, by failing to give notice to the Commission of the

laws, regulations and administrative provisions needed to give effect to Council Directive 88/320/EEC of 9 June 1988 on the inspection and verification of Good Laboratory Practice (GLP) (Official Journal 1988 L 145, p. 35), or by failing to adopt the measures needed to give effect to it, the Kingdom of Spain has failed to fulfil its obligations under the EEC Treaty.

2 Under Article 9 of the directive 'Member States shall bring into force the laws, regulations or administrative provisions necessary to comply with this Directive not later than 1 January 1989. They shall forthwith inform the Commission thereof.'

3 The Commission claims that the Kingdom of Spain has failed to fulfil its obligations under the combined provisions of Article 9 of the directive and Article 5 and the third paragraph of Article 189 of the Treaty.

4 The Kingdom of Spain does not deny that Directive 88/320 was not transposed within the time allowed. It claims, however, that transposition of that directive is linked to the transposition of Directive 87/18/EEC of 18 December 1986 on the harmonization of laws, regulations and administrative provisions relating to the application of the principles of good laboratory practice and the verification of their applications for tests on chemical substances (Official Journal 1987 L 15, p. 29), in so far as the inspection and verification made compulsory by Directive 88/320 are based on the principles laid down by Directive 87/18. The latter directive has just been transposed into national law. The procedure leading to the adoption of the royal decree transposing the directive should therefore be initiated very shortly.

5 In that connection, it should first of all be observed that Directive 87/18 was to be transposed by 30 June 1988 at the latest, that is to say before the end of the period prescribed for transposing Directive 88/320. The Kingdom of Spain may not, therefore, justify the failure to transpose that last-mentioned directive by the delay in implementing Directive 87/18.

6 It should next be noted that if a directive has not been transposed within the period allowed, a claim of failure to fulfil obligations in that respect must be regarded as well founded.

7 It must therefore be held that, by failing to adopt within the time allowed all the laws, regulations and administrative provisions needed to give effect to Council Directive 88/320/EEC, the Kingdom of Spain 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 Kingdom of Spain has been unsuccessful, it must be ordered to pay the costs.

On those grounds,

THE COURT

hereby:

1. **Declares that, by failing to adopt within the time allowed all the laws, regulations and administrative provisions needed to give effect to Council Directive 88/320/EEC of 9 June 1988 on the inspection and verification of**

Good Laboratory Practice, the Kingdom of Spain has failed to fulfil its obligations under the EEC Treaty;

2. Orders the Kingdom of Spain to pay the costs.

Mancini Moitinho de Almeida Edward

Joliet Schockweiler Rodríguez Iglesias

Grévisse Zuleeg Murray

Delivered in open court in Luxembourg on 23 March 1994.

R. Grass

Registrar

G. F. Mancini

President of Chambers,
acting as President