OPINION OF MR ADVOCATE GENERAL DARMON
delivered on 15 December 1987 *

Mr President,
Members of the Court,

1. The sole point at issue between the Commission and the Italian Government in this case is the extent of the failure to fulfil obligations under the EEC Treaty. According to the Commission, the failure consists in the fact that Council Directives 82/242 [1] and 82/243 [2] have not been transposed into Italian law. The Italian Government maintains that its domestic legislation includes provisions enabling some of the objectives of those directives to be attained so that its failure, which it does not dispute, consists in the fact that it has given effect only partially to those directives.

2. The decided cases of the Court emphasize the obligation of the Member States to ensure the 'full application' [3] of Community directives. The Italian Government has admitted that that is not the case in Italy. In addition, the Court has always held that difficulties concerning domestic procedures for the laying down of rules are not capable of justifying a State's failure to fulfil its obligations.

3. Consequently, I propose that the Court should:

(1) Declare that, by failing to adopt within the period prescribed the measures needed to ensure the full application of Council Directive 82/242/EEC of 31 March 1982 on the approximation of the laws of the Member States relating to methods of testing the biodegradability of non-ionic surfactants and of Council Directive 82/243/EEC of the same date on the approximation of the laws of the Member States relating to methods of testing the biodegradability of anionic surfactants, the Italian Republic has failed to fulfil its obligations under the EEC Treaty;

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

* Translated from the French.

1 — Decision 82/242 of 31 March 1982 on the approximation of the laws of the Member States relating to methods of testing the biodegradability of non-ionic surfactants (Official Journal 1982, L 109, p. 1).

2 — Decision 82/243 of 31 March 1982 on the approximation of the laws of the Member States relating to methods of testing the biodegradability of anionic surfactants (Official Journal 1982, L 109, p. 18).

3 — See, in particular, the Court's judgments of 23 May 1985 in Case 29/84 *Commission* v *Federal Republic of Germany* [1985] ECR 1661, paragraph 23 at p. 1673; of 9 April 1987 in Case 363/85 *Commission* v *Italian Republic* [1987] ECR 1733, paragraph 7 at p. 1742; of 8 July 1987 in Case 247/85 *Commission* v *Kingdom of Belgium* [1987] ECR 3029, paragraph 9 at p. 3060; and of 8 July 1987 in Case 262/85 *Commission* v *Italian Republic* [1987] ECR 3073, paragraph 9 at p. 3097.