REPORT FOR THE HEARING
delivered in Case 160/85 *

I — Facts and procedure

By its judgment of 10 November 1981 (Case 28/81 *Commission* v *Italian Republic* [1981] ECR 2577, the Court of Justice declared that:

'By failing to adopt within the prescribed period the provisions needed in order to comply with Council Directive No 74/561 of 12 November 1974 on admission to the occupation of road haulage operator in national and international transport operations (Official Journal L 308, p. 18), the Italian Republic has failed to fulfil one of its obligations under the Treaty'.

By its judgment of the same date in Case 29/81 (*Commission* v *Italian Republic* [1981] ECR 2585), the Court of Justice declared that:

'By failing to adopt within the prescribed period the provisions needed in order to comply with Council Directive No 74/562 of 12 November 1974 on admission to the occupation of road passenger transport operator in national and international transport operations (Official Journal L 308, p. 23), the Italian Republic has failed to fulfil one of its obligations under the Treaty.'

The Commission concluded from the fact that no information had been provided to it that the Italian Republic had not yet given effect to the judgments of the Court; by letter of 28 November 1983 it therefore initiated the procedure provided for under Article 169 of the Treaty and asked the Italian Government to submit its observations within two months following receipt of the letter.

By letter of 15 February 1984 from the Permanent Representation of Italy to the European Communities the Italian Government informed the Commission that a bill implementing the two directives in Italian law was under examination by the Transport Committee of the Senate of the Italian Republic.

The Commission was not informed of the adoption of the bill in question by the Italian Parliament, and by letter of 4 February 1985 it therefore issued a reasoned opinion to the effect that by failing to implement the judgments of the Court of Justice in Cases 28/81 and 29/81 the Italian Government had failed to fulfil its obligations under Article 171 of the Treaty. The Commission asked the Italian Government to take the measures necessary to comply with the reasoned opinion within two months from its notification.

Since the reasoned opinion was not complied with, by application dated 22 May 1985 the Commission brought these proceedings.

The application was lodged at the Court Registry on 23 May 1985.

On hearing the report of the Judge-Rapporteur and the views of the Advocate General, the Court decided to open the oral

* Language of the Case: Italian.

procedure without any preparatory inquiry. However, the Court asked the Italian Government for information on the parliamentary discussions and the date on which the legislation for the implementation in national law of Council Directives 74/561 and 74/562 would be enacted.

In its written reply of 3 May 1986 the Italian Government stated that it was unable to predict when the bills for the implementation in national law of those directives would be passed. It stated, however, that it would inform the Court of any new development.

II — Conclusions of the parties

The *Commission* claims that the Court should:

(a) declare that by its continued failure, notwithstanding the judgments of the Court of 10 November 1981 (Cases 28/81 and 29/81), to implement in national law Council Directive 74/561/EEC on admission to the occupation of road-haulage operator in national and international transport operations and Council Directive 74/562/EEC on admission to the occupation of road passenger transport operator in national and international transport operations, the Italian Republic has failed to fulfil its obligations under Article 171 of the EEC Treaty;

(b) order the Italian Republic to pay the costs.

The *Italian Government* did not formulate conclusions.

III — Submissions and arguments of the parties

The *Commission* argues that following the judgments of 10 November 1981 the Italian Republic should, under Article 171 of the EEC Treaty, have taken the measures necessary to put an end to its failure to fulfil its obligations under the Treaty, by implementing the directives concerned in national law. It is now several years since those judgments were given, and the Italian Republic has not adopted any measures to comply with the judgments of the Court.

The *Italian Government* states that provisions to implement Directive 74/561 were included in a bill substantially amending Law No 298 of 6 June 1974 on the transport of goods by road. The bill was approved by the Chamber of Deputies in the course of the previous session but that session came to an end before the parliamentary procedure could be completed and the bill finally enacted; the same bill has been submitted to the new session, in which it is still under discussion (Camera dei Deputati, IX legislatura, Document No 1231).

With regard to Directive 74/562, the Italian Government states that implementation provisions have been included in another bill, which is also before Parliament (Senato della Repubblica, IX legislatura, Document No 344).

The Italian Government considers that provisions implementing the directives in question will be adopted within a reasonable length of time.

In its reply, the *Commission* considers that there is a clear infringement which, because of the length of the parliamentary procedure, will not be brought to an end within the near future.

IV — Oral Procedure

At the hearing on 9 July 1986, oral argument was presented by the Italian Republic, represented by Oscar Fiumara, Avvocato dello Stato, acting as Agent, and by the Commission of the European Communities, represented by Sergio Fabro, a member of its Legal Department, acting as Agent.

The Advocate General delivered his Opinion at the sitting on 9 July 1986.

T. F. O'Higgins
Judge-Rapporteur