

(e) Council Directive 76/403/EEC of 6 April 1976 on the disposal of polychlorinated biphenyls and polychlorinated terphenyls;

the Italian Republic has failed to fulfil its obligations under the Treaty;

2. Orders the defendant to pay the costs.

Mertens de Wilmars	Bosco	Due
O'Keeffe	Koopmans	Chloros
		Grévisse

Delivered in open court in Luxembourg on 17 December 1981.

A. Van Houtte
Registrar

J. Mertens de Wilmars
President

**OPINION OF MRS ADVOCATE GENERAL ROZÈS
DELIVERED ON 2 DECEMBER 1981¹**

*Mr President,
Members of the Court,*

The Commission of the European Communities has brought before this Court five actions against the Italian Republic for failure to fulfil its obligations on the ground that it had failed to adopt, within the prescribed period of two years, the provisions needed in order to comply with five directives concerning the programme for the protection of the environment.

By your order of 30 September 1981, those five cases were joined for the purposes of the oral procedure and the judgment.

The directives in question are based on Articles 100 and 235 of the EEC Treaty and are designed either to eliminate substances which are poisonous (waste oils, waste) and cannot be broken down (polychlorinated biphenyls and polychlorinated terphenyls) or to protect the quality of surface water intended for the abstraction of drinking water in the Member States and the quality of bathing water. Their purpose is therefore to afford the same degree of protection within the Community to the health of individuals and to the environment and, moreover, to abolish certain differences between the laws of the Member States

¹ — Translated from the French.

which are capable of creating an imbalance in the conditions of competition.

As I have already pointed out, those directives accorded the Member States a two-year period within which they were to adopt implementing provisions under national law. The Italian Government did not submit any observations to the Commission which, once those periods had expired, lawfully delivered five reasoned opinions in which it declared that the Italian authorities had failed to fulfil their obligations to comply with the aforesaid directives.

The Italian Republic has not disputed either in fact or in law the need to bring into force the national laws, regulations and administrative provisions which it is under an obligation to adopt. It has pointed out that in January 1979 it laid a draft law before Parliament concerning the delegation to the government of the power to adopt the legislative rules

needed to implement a series of Community directives but that in view of the premature dissolution of both chambers the legislative procedure has not yet been completed.

It is apparent that although the above argument relating to the peculiarities of the parliamentary process reflects the Italian Government's firm intention to proceed as soon as possible with the implementation of Community provisions, it is inoperative in the present cases in view of the binding force of directives which the Court has constantly reaffirmed in its established case-law (judgments of 26 February 1976 in Case 52/75 *Commission v Italian Republic* [1976] ECR 277; 22 September 1976 in Case 10/76 *Commission v Italian Republic* [1976] ECR 1359; 22 February 1979 in Case 163/78 *Commission v Italian Republic* [1979] ECR 771; 2 December 1980 in Case 42/80 *Commission v Italian Republic* [1980] ECR 3635).

In my opinion therefore the Court should uphold the Commission's submissions and order the defendant to pay the costs.