

JUDGMENT OF THE COURT (Second Chamber)

7 March 2002 \*

In Case C-64/01,

**Commission of the European Communities**, represented by R.B. Wainwright and P. Panayotopoulos, acting as Agents, with an address for service in Luxembourg,

applicant,

v

**Hellenic Republic**, represented by N. Dafniou, acting as Agent, with an address for service in Luxembourg,

defendant,

\* Language of the case: Greek.

APPLICATION for a declaration that, by failing within the prescribed period to adopt the laws, regulations and administrative measures necessary in order to comply fully with Council Directive 96/61/EC of 24 September 1996 concerning integrated pollution prevention and control (OJ 1996 L 257, p. 26), or alternatively communicating the same to the Commission, the Hellenic Republic has failed to fulfil its obligations under that directive.

THE COURT (Second Chamber),

composed of: N. Colneric, President of the Chamber, R. Schintgen (Rapporteur) and V. Skouris, Judges,

Advocate General: P. Léger,  
Registrar: R. Grass,

having regard to the report of the Judge-Rapporteur,

after hearing the Opinion of the Advocate General at the sitting on 10 January 2002,

gives the following

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## Judgment

- 1 By application lodged at the Court Registry on 13 February 2001, the Commission of the European Communities brought an action under Article 226 EC for a declaration that, by failing within the prescribed period to adopt the laws, regulations and administrative measures necessary in order to comply fully with Council Directive 96/61/EC of 24 September 1996 concerning integrated pollution prevention and control (OJ 1996 L 257, p. 26), or alternatively by failing to communicate the same to the Commission, the Hellenic Republic has failed to fulfil its obligations under that directive.
  
- 2 Under the first subparagraph of Article 21(1) of Directive 96/61, the Member States were to bring into force the laws, regulations and administrative provisions necessary in order to comply with that directive no later than three years after its entry into force, that is to say, by 30 October 1999, and were immediately to inform the Commission thereof.
  
- 3 Taking the view that Directive 96/61 had not been transposed into Greek law within the prescribed period, the Commission initiated the infringement procedure. After giving the Hellenic Republic formal notice to submit its observations, the Commission on 25 July 2000 issued a reasoned opinion calling on that Member State to take the measures necessary to comply, within two months of notification of that opinion, with its obligations under that directive.
  
- 4 Having received no information to the effect that the transposition of the directive had been completed, the Commission brought the present action.

- 5 The Commission, pointing out the obligations incumbent on the Member States under Article 10 EC and the third paragraph of Article 249 EC, maintains that the Hellenic Republic was required to take all measures necessary to comply with Directive 96/61 within the prescribed period.
- 6 The Hellenic Republic states that the transposition of Directive 96/61 into national law, which is effected in two stages, was under way and should be completed before the end of 2001.
- 7 It is settled case-law that the question whether a Member State has failed to fulfil its obligations must be determined by reference to the situation prevailing in the Member State at the end of the period laid down in the reasoned opinion (see, in particular, Case C-147/00 *Commission v France* [2001] ECR I-2387, paragraph 26).
- 8 In the present case, it is common ground that the Hellenic Republic has not adopted the measures necessary in order to comply with the reasoned opinion within the period prescribed for that purpose.
- 9 The action brought by the Commission must therefore be regarded as well founded.
- 10 Consequently, it must be held that, by failing to adopt within the prescribed period the laws, regulations and administrative measures necessary in order to

comply with Directive 96/61, the Hellenic Republic has failed to fulfil its obligations under that directive.

### Costs

- 11 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 applied for costs and the Hellenic Republic has been unsuccessful, the latter must be ordered to pay the costs.

On those grounds,

THE COURT (Second Chamber)

hereby:

1. Declares that, by failing to adopt the laws, regulations and administrative measures necessary in order to comply with Council Directive 96/61/EC of 24 September 1996 concerning integrated pollution prevention and control, the Hellenic Republic has failed to fulfil its obligations under that directive;

**2 Orders the Hellenic Republic to pay the costs.**

Colneric

Schintgen

Skouris

Delivered in open court in Luxembourg on 7 March 2002.

R. Grass

Registrar

N. Colneric

President of the Second Chamber