

# COURT OF JUSTICE

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### JUDGMENT OF THE COURT

of 14 October 1992

in Case C-262/91: Commission of the European Communities v. Italian Republic <sup>(1)</sup>

*(Failure to fulfil obligations — failure to comply with judgments of the Court finding a failure to fulfil obligations)*

(92/C 300/05)

*(Language of the Case: Italian)*

*(Provisional translation; the definitive translation will be published in the Reports of Cases before the Court)*

In Case C-262/91: Commission of the European Communities (Agents: Johannes Føns Buhl and Antonio Aresu) against Italian Republic (Agent: Professor Luigi Ferrari Bravo, Head of the Legal Department of the Ministry of Foreign Affairs, assisted by Ivo Braguglia, Avvocato dello Stato) — application for a declaration that, by failing to adopt the measures necessary to comply with the judgments of 24 November 1987 in Cases C-124/86 *Commission v. Italy* [1987] ECR 4661, and C-125/86 *Commission v. Italy* [1987] ECR 4669, the Italian Republic has failed to fulfil its obligations under Article 171 of the EEC Treaty — the Court, composed of O. Due, President, G. C. Rodriguez Iglesias, M. Zuleeg, and J. L. Murray (Presidents of Chambers), G. F. Mancini, F. A. Schockweiler, J. C. Moitinho de Almeida, P. J. G. Kapteyn and D. A. O. Edward, Judges; C. O. Lenz, Advocate General; L. Hewlett, Administrator, for the Registrar, gave a judgment on 14 October 1992, the operative part which is as follows:

1. *By failing to adopt the measures necessary to comply:*

— *with the judgment of 24 November 1987, in Case C-124/86 Commission v. Italy in which the Court declared that:*

*'By failing to adopt within the prescribed period the provisions necessary to comply with Council Directive 83/183/EEC of 28 March 1983 on tax exemptions applicable to permanent imports from a*

*Member State of the personal property of individuals, the Italian Republic has failed to fulfil its obligations under the EEC Treaty',*

— *and the judgment of 24 November 1987 in Case C-125/86 Commission v. Italy in which the Court declared that:*

*'By failing to adopt within the prescribed period the provisions necessary to comply with Council Directive 83/181/EEC of 28 March 1983 determining the scope of Article 14 (1) (d) of Directive 77/388/EEC as regards exemption from value-added tax on the final importation of certain goods, the Italian Republic has failed to fulfil its obligations under the EEC Treaty',*

*the Italian Republic has failed to fulfil its obligations under Article 171 of the EEC Treaty.*

2. *The Italian Republic is ordered to pay the costs.*

### JUDGMENT OF THE COURT

of 20 October 1992

in Case C-295/90 Rev.: Council of the European Communities v. European Parliament and Others <sup>(1)</sup>

*(Application for revision — admissibility)*

(92/C 300/06)

*(Language of the Case: French)*

*(Provisional translation; the definitive translation will be published in the Reports of Cases before the Court)*

In Case C-295/90 Rev.: Council of the European Communities (Agents: Arthur Alan Dashwood and Jill Aussen) against European Parliament (Agents: Jorge Campinos, assisted by Roland Bieber and Kieran Bradley), Commission of the European Communities (Agents: C. W. A. Timmermans and Denise Sorasio), United Kingdom of Great Britain and Northern Ireland (Agent: J. E. G. Vaux, assisted by Richard Plender and Derrick Wyatt) and the Kingdom of the Netherlands (Agents: J. W. de Zwaan and T. Heukels), — application for revision of the judgment delivered by the Court of

<sup>(1)</sup> OJ No C 302, 22. 11. 1991, p. 7.

<sup>(1)</sup> OJ No C 285, 13. 11. 1990, p. 13 and OJ No C 189, 28. 7. 1992, p. 7.

Justice on 7 July 1992 in Case C-295/90 Parliament v. Council (not yet published in the Reports) — the Court, composed of O. Due, President, C. N. Kakouris, G. C. Rodríguez Iglesias, M. Zuleeg and J. L. Murray (Presidents of Chambers), G. F. Mancini, R. Joliet, F. A. Schockweiler, J. C. Moitinho de Almeida, F. Grévisse and M. Díez de Velasco, P. J. G. Kapteyn and D. A. O. Edward, Judges; F. G. Jacobs, Advocate General; J.-G. Giraud, Registrar, gave a judgment on 20 October 1992, the operative part which is as follows:

1. *The application for revision is dismissed as inadmissible.*
2. *The parties are ordered to bear their own costs.*

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### JUDGMENT OF THE COURT

(Third Chamber)

of 22 October 1992

**in Case C-85/90: (reference for a preliminary ruling made by the Supreme Court of Ireland): William Dowling v. Ireland, the Attorney General and the Minister for Agriculture and Food <sup>(1)</sup>**

*(Additional levy on milk)*

(92/C 300/07)

*(Language of the case: English)*

In Case C-85/90: reference to the Court under Article 177 of the EEC Treaty by the Supreme Court of Ireland for a preliminary ruling in the proceedings pending before that court between William Dowling and Ireland, the Attorney General and Minister for Agriculture and Food — on the interpretation of, *inter alia*, Articles 3 (3) and 3a of Council Regulation (EEC) No 857/84 of 31 March 1984 adopting general rules for the application of the levy referred to in Article 5c of Regulation (EEC) No 804/68 in the milk and milk products sector <sup>(2)</sup>, as amended by Council Regulation (EEC) No 764/89 <sup>(3)</sup> — the Court (Third Chamber), composed of M. Zuleeg, President of the Chamber, J. C. Moitinho de Almeida and F. Grévisse, Judges; Advocate General: F. G. Jacobs; Registrar: D. Triantafyllou, Administrator, for the Registrar, gave a judgment on 22 October 1992, the operative part of which is as follows:

*The combined provisions of Articles 3 (3) and 3a of Council Regulation (EEC) No 857/84, as amended by*

*Council Regulation (EEC) No 764/89 and subsequently by Council Regulation No 1639/91, do not provide for any possibility of granting a reference quantity to a producer whose conversion period, in performance of the undertaking given under Council Regulation (EEC) No 1078/77, expired before 1 January 1983, even though that producer was prevented by an occupational incapacity from delivering milk between the expiry of his undertaking and the end of 1983, the reference year adopted by the Member State concerned.*

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**Reference for a preliminary ruling by the Finanzgericht Düsseldorf, by order of that court of 21 August 1992 in the case of Manfred Graff v. Hauptzollamt Köln-Rheinau**

(Case C-351/92)

(92/C 300/08)

Reference has been made to the Court of Justice of the European Communities by an order of the Fourth Chamber of the Finanzgericht (Finance Court) Düsseldorf, of 21 August 1992, which was received at the Court Registry on 9 September 1992, for a preliminary ruling in the case of Manfred Graff v. Hauptzollamt Köln-Rheinau on the following question:

'Is a failure to take account, when determining a reference quantity, of the milk production from a holding which is taken over and worked together with a holding situated in another Member State contrary to the principle of equal treatment and the second subparagraph of Article 40 (3) of the EEC Treaty, if it is only the fact that the holding which is taken over and worked with the other holding is situated in another Member State which precludes account being taken of it, as would otherwise be done under national law, resulting in a higher reference quantity?'

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**Reference for a preliminary ruling by the Hessischer Verwaltungsgerichtshof by order of that court of 17 August 1992 in the case of Hans Irsfeld OHG v. Bundesanstalt für Landwirtschaftliche Marktordnung**

(Case C-374/92)

(92/C 300/09)

Reference has been made to the Court of Justice of the European Communities by order of the Eighth Senate of the Hessischer Verwaltungsgerichtshof [Higher Administrative Court, Hesse] of 17 August 1992, which was

<sup>(1)</sup> OJ No C 109, 3. 5. 1990, p. 11.

<sup>(2)</sup> OJ No L 90, 1. 4. 1984, p. 13.

<sup>(3)</sup> OJ No L 84, 29. 3. 1989, p. 2.