OPINION OF ADVOCATE GENERAL MISCHO

delivered on 13 October 1998 *

1. By this action brought against the Italian Republic on 9 December 1997, the Commission applied to the Court for a declaration that, by failing to adopt the laws, regulations and administrative provisions necessary to comply with:

— Council Directive 93/119/EC of 22 December 1993 on the protection of animals at the time of slaughter or killing, [1]

— Council Directive 94/42/EC of 27 July 1994 amending Directive 64/432/EEC on health problems affecting intra-Community trade in bovine animals and swine, [2]

— Commission Directive 94/16/EC of 22 April 1994 amending Council Directive 74/63/EEC on undesirable substances and products in animal nutrition, [3]

— Council Directive 93/118/EC of 22 December 1993 amending Directive 85/73/EEC on the financing of health inspections and controls of fresh meat and poultrymeat, [4]

or in any event by failing to notify the Commission of such provisions, the Italian Republic had failed to fulfil its obligations under those directives. It also requested that the Italian Republic be ordered to pay the costs.

2. In its application, the Commission retraced the various stages of the pre-litigation procedure provided for under Article 169 of the EC Treaty.

* Original language: French.

1 — OJ 1993 L 340, p. 21.

2 — OJ 1994 L 201, p. 26.

3 — OJ 1994 L 104, p. 32.

4 — OJ 1993 L 340, p. 15.

3. In its defence, lodged on 14 February 1998, the Italian Republic does not deny either the regularity of that procedure or the reality of the failure to fulfil obligations. It merely provides information as to the latest state of the timetable drawn up for the transposition of the directives in question. Directives 93/119 and 93/118 will be transposed by legislative decree once the Community Statute for 1995/1997, parliamentary scrutiny of which is on the point of completion, has been approved and has entered into force. Directive 94/42 will be transposed by regulation authorised under that Community Statute, and Directive 94/16 will be transposed by a ministerial decree which is currently at the consultation stage between the national administrations concerned.

4. The Commission considered it unnecessary to file a reply, and both parties waived a hearing.

5. In those circumstances, I can only propose that the Court should allow the Commission's action in full and therefore:

(1) Declare that, by failing to adopt the necessary laws, regulations and administrative provisions to comply with Council Directive 93/119/EC of 22 December 1993 on the protection of animals at the time of slaughter or killing, Council Directive 94/42/EC of 27 July 1994 amending Directive 64/432/EEC on health problems affecting intra-Community trade in bovine animals and swine, Commission Directive 94/16/EC of 22 April 1994 amending Council Directive 74/63/EEC on undesirable substances and products in animal nutrition, and Council Directive 93/118/EC of 22 December 1993 amending Directive 85/73/EEC on the financing of health inspections and controls of fresh meat and poultrymeat, or in any event by failing to notify the Commission of such provisions, the Italian Republic has failed to fulfil its obligations under those directives;

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