OPINION OF ADVOCATE GENERAL LENZ

delivered on 16 November 1995 *

1. In this action against Ireland for failure to fulfil obligations, the Commission asks the Court to:

(1) declare that, by failing to bring into force the laws, regulations and administrative measures necessary to comply with Council Directive 90/425/EEC of 26 June 1990 concerning veterinary and zootechnical checks applicable in intra-Community trade in certain live animals and products with a view to the completion of the internal market, [1] Ireland has failed to fulfil its obligations under that directive, in particular Article 26 thereof, and under the Treaty establishing the European Community;

(2) order Ireland to pay the costs.

2. Article 26 of Directive 90/425 prescribes that Member States are to bring into force the laws, regulations and administrative provisions necessary to comply fully with the directive by 31 December 1991 at the latest.

3. Since the Commission was not informed of any transposition by the Member State, it initiated the procedure for failure to fulfil obligations by a letter of formal notice dated 14 October 1992. There was no reply to the letter. The Commission thereupon delivered a reasoned opinion on 11 May 1993. By a letter of 15 July 1993 from the Permanent Representation of Ireland to the European Communities, the Irish Government informed the Commission that a transposition procedure was in progress. Since the Commission was not informed of the completion of the procedure, it brought an action before the Court on 10 June 1994. The Irish Government observed in its defence that by Statutory Instrument No 289 of 1994, signed by the Irish Minister for Agriculture on 21 September 1994, part of the directive had been transposed, and that for the rest the measures needed for transposition of the directive were in preparation.

4. It is certain that the directive was not completely transposed into the law of the

* Original language: German.
1 — OJ 1990 L 224, p. 29.

Member State within the time-limit set by the Commission.

5. The Commission's application with reference to failure to transpose the directive within the prescribed period must therefore be upheld.

6. In accordance with Article 69(2) of the Rules of Procedure, the unsuccessful party must be ordered to pay the costs.

Conclusion

7. In conclusion, I suggest that the Court rule as follows:

(1) By failing to bring into force the laws, regulations and administrative measures necessary to comply with Council Directive 90/425/EEC of 26 June 1990 concerning veterinary and zootechnical checks applicable in intra-Community trade in certain live animals and products with a view to the completion of the internal market, Ireland has failed to fulfil its obligations under that directive, in particular Article 26 thereof, and under the Treaty establishing the European Community.

(2) Ireland is ordered to pay the costs.