OPINION OF ADVOCATE GENERAL LENZ

delivered on 2 October 1997 *

A — Introduction

1. This action against a Member State for failure to fulfil its obligations relates to Council Directive 76/160/EEC of 8 December 1975 concerning the quality of bathing water [1] ('the directive').

2. According to the first recital in the preamble to the directive, its object is, 'in order to protect the environment and public health, ... to reduce the pollution of bathing water and to protect such water against further deterioration'. For this purpose, Article 3(1) provides that the Member States must set the values applicable to bathing water (e. g. the content of certain bacteria) which must correspond to certain parameters given in the Annex. Some of these parameters are binding maximum values, others are given as guidelines. [2]

3. For the purposes of the directive, Article 1(2)(a) defines 'bathing water' as 'all running or still fresh waters or parts thereof and sea water in which bathing is expressly authorised by the competent authorities of each Member State or bathing is not prohibited and is traditionally practised by a large number of bathers'.

4. Under Article 4(1) of the directive, the Member States must take all necessary measures 'to ensure that, within 10 years following the notification of this directive, the quality of bathing water conforms to the limit values set in accordance with Article 3'.

5. Adherence to the limit values is monitored, pursuant to Article 6 of the directive, by means of sampling operations carried out by the competent authorities of the Member States. The minimum frequency of these operations is laid down in the Annex.

* Original language: German.

1 — OJ 1976 L 31, p. 1.

2 — See Article 3(2) and (3) of the directive.

6. According to the original version of Article 13 of the directive, the Member States were at regular intervals to submit a comprehensive report to the Commission on their bathing water and the most significant characteristics thereof. Since 1993 [3] the Member States have been required to send the Commission a report on the implementation of the directive every year.

7. The Kingdom of Spain joined the Community on 1 January 1986. The Act concerning the Conditions of Accession of the Kingdom of Spain and the Portuguese Republic and the Adjustments to the Treaties ('Act of Accession') did not set a time-limit for the implementation of the directive by Spain, unlike Portugal. Under Article 395 of the Act of Accession, Spain therefore had to comply with the directive from the date of accession.

8. On the basis of the information subsequently provided by the Spanish authorities, the Commission took the view that the implementation of the directive by the Kingdom of Spain gave rise to reservations in several respects. Therefore the Commission gave Spain the opportunity, in a letter of 13 October 1989, to submit its observations concerning those reservations. The Kingdom of Spain replied in a letter of 13 November 1989. As the Commission found that the observations in the letter were not such as to refute its complaints, it delivered a reasoned opinion on 27 November 1990 pursuant to Article 169 of the EC Treaty, granting Spain one month within which to remedy its failure to fulfil the Treaty obligations in question. The Kingdom of Spain replied to the reasoned opinion by letter of 15 March 1991.

9. At a meeting held in 1992, the Spanish authorities stated that they were willing to send the Commission additional information concerning their efforts to implement the directive. Several reports and documents were sent to the Commission in the following years. However, the Commission took the view that its complaints had still not been disposed of. In 1996, therefore, it decided to bring the matter before the Court on the basis of Article 169 of the EC Treaty.

10. The Commission claims that the Court should:

— declare that, by failing to take the necessary measures to ensure that the quality of inshore bathing waters conforms to the limit values set in Article 3 of the

3 — Following the amendment of Article 13 of the directive by Article 3 of Council Directive 91/692/EEC of 23 December 1991 standardising and rationalising reports on the implementation of certain directives relating to the environment (OJ 1991 L 377, p. 48).

directive, the Kingdom of Spain has failed to fulfil its obligations under Article 4 of the directive and under Articles 5 and 189 of the EC Treaty; and

— order the Kingdom of Spain to pay the costs.

11. In this connection the Commission points out that its action relates to only one of the complaints made by it in the pre-litigation procedure. Furthermore, it states that the action relates only to inshore bathing waters. [4] It does not therefore relate to sea bathing areas or to coastal waters.

12. The Kingdom of Spain contends that the action should be dismissed and that the Commission should be ordered to pay the costs.

B — Analysis

13. By way of justification for its application, the Commission claims that the limit values set pursuant to Article 3 of the directive have not been adhered to in a considerable number of bathing areas [5] in Spain. Thus in 1994 samples did not conform to the limit values set in 29% of cases. [6] According to the Commission, if the places for which the Spanish authorities had not provided information or where samples had not been taken at the prescribed intervals were included, this figure would rise to 36%. A similar result would be obtained for the previous years. Here the Commission gives the corresponding figures for 1991, 1992 and 1993.

14. The Spanish Government has not denied the accuracy of those figures. The Commission correctly pointed this out in its reply. The Commission's figures relate to the years 1991 to 1994, that is to say, a period following the expiry of the one-month time-limit given to the Kingdom of Spain in the reasoned opinion of 27 November 1990 to terminate the infringements alleged against it.

4 — The term used in the Commission's application is 'inshore bathing waters', whereas the abovementioned definition in Article 1 of the directive refers to 'fresh waters'. It appears from the submissions in the application that the different wording chosen by the Commission is not based on substantive grounds. Therefore in my Opinion I shall employ the term used in the directive itself.

5 — Article 1(2)(b) of the directive defines 'bathing area' as any place where bathing water is found.

6 — This figure and the following figures relate to only two of the parameters specified in the directive, namely total coliform bacteria and faecal coliform bacteria.

In the present case, however, this is not material to the admissibility of the Commission's allegations. Firstly, the Spanish Government has never disputed that use of those figures is permissible. Secondly, the Commission claims that Spain's failure in respect of its obligations, as shown by those figures and the figures for earlier years, goes back to the date of Spain's accession to the Community, a claim which has not been denied by the Spanish Government.

15. In the reply the Commission produced the corresponding figures for 1995, according to which the proportion of samples which did not meet the limit values set was more or less the same (30.3%) in 1995. However, the Commission points out that because of the drought the Spanish authorities did not take samples at 122 places where sampling had been carried out in previous years. [7] In the rejoinder and at the hearing before the Court, the Spanish Government argued that it was not permissible to use those figures because the pre-litigation procedure did not relate to them. However, the Commission argued that they could be used as Spain was still in default and the new figures corresponded to the figures for the preceding years.

16. In my opinion, this question does not require further consideration by the Court. The Commission's figures do not affect the subject-matter of this action. In this case, the Court has to decide whether the Kingdom of Spain has fulfilled its obligations under Article 4 of the directive within the time-limit granted to it for that purpose by the Commission in its reasoned opinion of 27 November 1990. The figures given by the Commission for later years are significant in so far as they show that the alleged situation continued to exist even after the specified period. However, this is not in fact denied by the Spanish Government, subject to the justifying grounds relied upon which have nothing to do with this particular issue. Furthermore, the figures could be significant in so far as they may permit conclusions to be drawn with regard to the period which is relevant for the decision to be given in the case. If the limit values in question were clearly exceeded in all the years which have since elapsed, it may well be assumed that the situation was the same during the period to which this case relates. In that respect there can be no objection whatever to this submission, which the Commission could also have made in the reply. [8] It should also be

7 — According to the information provided by the Commission, samples were taken at 343 places in 1994 and at 221 in 1995.

8 — It should be noted that the figures are taken from a report which, according to the Commission, was published in May 1996, whereas the present action had already been brought before the Court in March 1996.

observed that the Spanish Government has not disputed that the new figures produced by the Commission are objectively correct.

17. As the Court has already found in its judgment of 14 July 1993 given in an action brought by the Commission against the United Kingdom for failure to fulfil its obligations, the directive requires the Member States 'to ensure that certain results are attained'. The Member States must 'bring the waters at issue into conformity at least with the annex to the directive'. [9] Article 4 of the directive, which must be examined here, requires the Member States to attain a particular *result*. Therefore the measures which the Spanish Government says it has taken in recent years to improve water quality are of no consequence if they have not led to the result prescribed by the directive.

18. The Spanish Government justifies the failure to fulfil its obligations on three grounds. First, it contends that its alleged failure is attributable to a factor over which it has no control, namely the exceptional drought prevailing in Spain. Secondly, it seeks to rely on the general context of the directive, mentioning in this connection primarily Council Directive 91/271/EEC of 21 May 1991 concerning urban waste water treatment. [10] Finally, it contends that people's habits have changed, with the result that 'bathing water' in many areas is no longer used.

The consequences of the drought in Spain

19. In its defence, the Kingdom of Spain refers to the exceptional drought which has prevailed in Spain for five years. Although dry spells are not unusual in Spain, this has been an exceptionally severe drought which has frustrated every attempt to improve water quality. The resulting shortage of water in watercourses has inevitably led to an increase in the concentration of harmful substances. The samples analysed cannot therefore be regarded as representative. In those circumstances, it was a 'triumph', as the Spanish Government argued at the hearing before the Court, that the percentage of samples which did not conform to the specified limit values had remained constant over the years. If due allowance is made for the drought, the percentage of samples which conformed to those values was at least 82%, a figure considerably higher than the Community average.

9 — Case C-56/90 [1993] ECR I-4109, paragraphs 43 and 44.
10 — OJ 1991 L 135, p. 40.

20. The Spanish Government contends that this is a case of *force majeure* which permits the application of Article 5(2) of the directive. This provides that deviations from the values referred to in Article 3 are not to be taken into consideration 'when they are the result of floods, other natural disasters or abnormal weather conditions'. In the Spanish Government's opinion, the weather conditions in question are of this 'abnormal' kind.

21. The Spanish Government adds that environmental conditions in the Community differ widely and that these differences should be taken into account. The Mediterranean, in particular, is affected by considerable variations in temperature and therefore bathing water in that area should be treated differently from that in other parts of the Community. In this connection the Spanish Government refers to the Commission's communication to the Council and to the European Parliament of 21 February 1996, entitled 'European Community Water Policy'. [11] This document observes that 'particularly in the southern part of the Community' some rivers and lakes dry out naturally during certain periods of the year. It also states that the Community's water policy must 'be sufficiently flexible to avoid the imposition of inappropriate or unnecessarily strict requirements simply for the sake of harmonisation'. [12]

22. Finally, the Spanish Government contends that the samples relied upon by the Commission relate to compliance with only two of the 19 parameters referred to by the directive.

23. The Commission does not deny that the drought has had the general effects on water quality claimed by the Spanish Government. However, it takes the view that the drought does not fall within the category of 'abnormal weather conditions' referred to in Article 5(2) of the directive. According to the Commission, that provision must be construed narrowly. It contains detailed rules for cases of *force majeure*. According to the Court's case-law, however, *force majeure* arises only where 'the external cause relied on by individuals has consequences which are inexorable and inevitable to the point of making it objectively impossible for the persons concerned to comply with their obligations'. [13] In the Commission's view, Article 5(2) of the directive covers only temporary deviations from the limit values set which are attributable to specific events of limited duration, for instance floods. However, the present case involves a periodically recurring phenomenon which has appeared in some parts of Spain for several years. Consequently, it is not of limited duration, nor is it unforeseeable. Furthermore, the drought is only one of several factors and is not the only cause of the alleged failure by Spain to

11 — COM(96) 59 final.

12 — Ibid. (footnote 11), paragraphs 4.2 and 5.8.

13 — See Joined Cases 154/78, 205/78, 206/78, 226/78 to 228/78, 263/78, 264/78, 31/79, 39/79, 83/79 and 85/79 *Valsabbia and Others* v *Commission* [1980] ECR 907, paragraph 140.

fulfil its obligations. According to the Commission, it would not have been objectively impossible for Spain to comply with the directive in spite of the drought. Consequently, there was no causal connection between the drought and the alleged infringement, because Spain was in a position to fulfil its obligations under the directive by making additional efforts if necessary.

24. In this connection, the Commission also claims that the Spanish Government has not provided any specific information on the effects of the absence of rainfall in individuals regions. According to the Commission, in Spain there are two areas which differ distinctly. The south and the centre of Spain were severely affected by the drought, but the north, which has more rain, was hardly affected at all. Nevertheless, a good half of the places where samples were taken which did not conform to the limit values set were situated in the north. The Commission also points out that it was not clear why the 1995 figures showed a rise in the percentage of samples which did not conform to the directive, although no samples at all were taken at 122 places because of the drought. In addition, the number of bathing areas tested rose from 312 in 1992 to 343 in 1995.

25. Like the Commission, I consider that the exception laid down in Article 5(2) of the directive must be construed strictly. However, I do not take the view that a drought would not constitute 'abnormal weather conditions' within the meaning of that provision. In my opinion, the wording itself suggests that the Commission's contrary interpretation is incorrect. It is not quite clear what other 'abnormal weather conditions' the legislative authority could have had in mind. In any case, the provision is applicable only where a drought is really *abnormal*. I am unable to state conclusively whether that was so here, although certain circumstances indicate that it was. The burden of proof in this connection rests, of course, with the Kingdom of Spain which seeks to rely on this exception. For the benefit of the defendant State, I shall proceed on the assumption that the drought was indeed abnormal. The fact that such droughts occur now and then in Spain, as we know, does not in any way affect the applicability of the abovementioned provision of the directive. Likewise the fact that, according to the Spanish Government, the drought has lasted for several years does not, in my view, render the provision inapplicable. It cannot be inferred from the present wording of the directive that 'abnormal weather conditions' are relevant only if they lasted for a fairly short time. At the hearing the Spanish Government correctly observed that the floods referred to in Article 5(2) could also constitute events which recur at more or less frequent intervals. [14] The Commission's observation that its proposal for a Council directive concerning the quality of bathing water, which was

14 — This can be borne out by the people living near the Rhine and the Moselle.

submitted in 1994, [15] contained a proviso to that effect, [16] is irrelevant as long as the proposal has not become law.

26. Nevertheless, I consider that the Commission's objections to the Spanish Government's point of view are justified. In my opinion, Spain has not proved that its alleged failure to fulfil its obligations was caused entirely or mainly by the drought.

27. The significant fact that the percentage of samples which did not conform to the requirements of the directive remained relatively constant for years may perhaps be explained by the length of the drought referred to by the Spanish Government. The water shortage alleged by that Government, however, cannot explain the fact, which it does not deny, that there was a considerable increase in the number of bathing areas tested in the same period. [17] How could the number of bathing places increase if the drought which occurred during the same period had the serious consequences described by the Spanish Government?

28. The crucial factor, however, is that there is something to be said, at first sight, for the Commission's claim that the north of Spain was less affected by the drought. The Spanish Government has not denied that many of the bathing areas which produced defective samples were in the north. Under these circumstances, the Kingdom of Spain could have refuted the Commission's claim only by means of figures broken down according to individual regions. It would also have been necessary to show that the Spanish authorities had not been in a position, even by making additional efforts, to ensure compliance with the directive for the bathing waters in question. This was not done, and in my view, therefore, the Kingdom of Spain cannot rely on Article 5(2) of the directive or on *force majeure* in general.

29. In the 1993 judgment to which I have already referred, the Court observed that a Member State could justify failure to fulfil the obligations laid down in the directive only on the grounds set out in the directive itself. [18] However, the Court did not categorically rule out the possibility that a Member State could plead 'the absolute objective impossibility of carrying out the obligations imposed by the directive'. [19] As, in the present case, the effects of the drought fall in principle within the justifying grounds

15 — OJ 1994 C 112, p. 3.

16 — See Article 5(3) of the proposal, which refers to 'temporary deviations'.

17 — If the 1991 figure (271) given by the Commission in its application is included, the increase is even more striking.

18 — Loc. cit., (footnote 9), paragraphs 43 and 44.

19 — Ibid. (footnote 9), paragraph 46.

expressly set out in the directive, it is unnecessary to consider this point in further detail. Even if this were done, the conclusion would be the same as that which I reached above in relation to Article 5 of the directive. The Kingdom of Spain has not proved that this was a case of objective impossibility.

30. I think I can be brief with regard to the particular characteristics of bathing water in the Mediterranean region and the Spanish Government's point concerning flexibility in regard to the interpretation of the directive. The Commission observes, quite rightly, that the Kingdom of Spain, on its accession, voluntarily undertook to fulfil the obligations arising from the directive with effect from 1 January 1986 and did not request extra time for giving effect to the directive. If the characteristics of the Spanish climate and environment had really necessitated any adjustment to the directive, it would have been the responsibility of the Kingdom of Spain to propose such an amendment during the accession negotiations or, at least, obtain a sufficient period for implementation. This was by no means impossible, as shown by the example of Portugal, [20] all the more so if the statement made by the Spanish Government during the hearing before the Court, that the drought began as early as 1985, is correct.

20 — See point 7 above.

31. Furthermore, the Spanish Government is wrong in claiming that the Commission demands that Spanish bathing water should be 100% in conformity with the requirements laid down by the directive. At the hearing, the Commission referred once again to the wording of Article 5(1) of the directive, which states that, for the purposes of Article 4, bathing water in a Member State is to be deemed to conform to the relevant parameters if (to take only one factor) 95% of the samples correspond to the binding maximum values. Therefore, the directive itself contains a provision which is advantageous to Member States in not prescribing 100% compliance with its requirements. At the hearing, the Spanish Government itself referred to the sixth recital in the preamble to the directive, which alludes to the abovementioned provision. Furthermore, the seventh recital shows that even in its present version the directive allows for considerable flexibility. That recital provides for derogations (such as, for example, those referred to in Article 5(2)) 'to achieve a certain degree of flexibility in the application of this directive'.

32. I am also of the opinion that in the present case the Commission (as it claims itself) is demanding from the Kingdom of Spain only the very least that can be expected of a Member State on the basis of the directive. The Commission's complaint relates to only two of the most important binding parameters. The present action is not concerned with the other parameters, whether binding or only for guidance.

33. That meets the Spanish Government's final objection. The fact that the Commission has found that the limit values prescribed by the directive have not been attained in relation to only two parameters certainly does not mean that the Kingdom of Spain has adhered to all the other limit values. On the contrary, it is entirely legitimate for the Commission to limit its complaint to two particularly important parameters.

Influence of other measures

34. In its defence, the Spanish Government discussed in detail the Commission's communication of 21 February 1996 concerning the European Community water policy, which has already been mentioned. [21] This document is unquestionably important for the future policy of the Community with regard to water protection but, in my opinion, is not relevant to the present action. Admittedly, the conclusion drawn by the Spanish Government from the communication is that some of the existing measures in this area are outdated and the objectives pursued can be attained, perhaps even more effectively, by other means. However, it is clear from the communication that the present directive is to be retained. [22] Moreover, in 1994 the Commission submitted a proposal for a Council directive concerning the quality of bathing water [23] which shows that the directive in question here is to be amended in certain respects, but not repealed. In any event, none of this alters the fact that the *current* provisions of the directive are binding.

35. The Spanish Government considers that Directive 91/271 is particularly important in this connection. It requires the Member States to ensure that municipalities of a certain size are provided with collecting systems for urban waste water and that such water undergoes treatment before discharge into receiving waters. Some of these provisions state that the requirements laid down must be fulfilled by 31 December 2005. The Spanish Government contends that there is a discrepancy between those rules and Directive 76/160. In its view, urban waste water is the main cause of the pollution of bathing water. Since Directive 91/271 allows a time-limit expiring in 2005 for waste water, whereas Directive 76/160 should have been implemented in Spain by 1 January 1986, there has been no coordination between the two.

36. As the Commission correctly observes, the Spanish Government's arguments cannot

21 — See footnote 11.

22 — See paragraph 9 of the communication.

23 — Loc. cit. (footnote 15).

succeed. It does not follow from Directive 91/271 that it was the intention of the legislature to give the Member States an additional period for implementing Directive 76/160. Therefore it cannot be assumed that the later directive was intended to grant a 'period of grace' to Member States which had not yet implemented the directive under consideration here. Furthermore, there is no conflict between the two directives, contrary to the Spanish Government's contention. Both serve the same purpose, that is to say, the protection of water, but they take a different approach. The directive under consideration requires the Member States to ensure that certain limit values for bathing water are not exceeded. If, to that end, it was necessary to take action against pollution from urban waste water, there was already an obligation to do so arising from the 1976 directive which is relevant to this case. In that connection, nothing has been changed by Directive 91/271. That interpretation in no way detracts from the latter directive, which also applies, for example, where urban waste water is discharged into water which is not 'bathing water'.

Changes in social habits

37. The Spanish Government contends that in many cases bathing areas have been abandoned by users, who now prefer municipal or private leisure facilities, with the result that many of the waters studied should no longer be regarded as 'bathing water' within the meaning of the directive. In that connection, the Spanish Government adds that the definition of 'bathing water' in Article 1 of the directive is unclear. This provision states that 'bathing water' includes water in which 'bathing is not prohibited and is traditionally practised by a large number of bathers'. The Spanish Government argues, in the first place, that the lack of precision in the phrase 'a large number of bathers' has led to difficulty and confusion. Some areas are said to have continued to be managed as bathing areas even though they have been abandoned by users. Secondly, the fact that there is no provision with regard to the consequences if bathing is prohibited, whether temporarily or permanently, by the authorities, is said to have led to uncertainty. According to the Spanish Government, the Commission proposal of 1994 is more specific is so far as it is clear that, in the event of a permanent prohibition, the water in question would no longer be bathing water. [24]

38. The Spanish Government's arguments are not altogether clear. If what it really means is that the requirements laid down by the directive concerning bathing water are no longer relevant if water is no longer used for bathing, or is used by only a few people, the risk is of a circular argument. The Commission was right to draw attention to this. The

24 — See Article 7(2) of the proposal, ibid. (footnote 23).

possibility cannot be ruled out that the fall in the number of bathers is attributable precisely to the deterioration in the quality of the water. If this were tolerated to the extent that a Member State would no longer have to ensure that the limit values set were adhered to for that water, it would be contrary to the meaning and purpose of the directive. The same applies to the question of what the consequences are of an official ban on bathing. It should be borne in mind that the directive is intended to protect not only health, but also the environment. [25] If a Member State were permitted simply to prohibit bathing where water becomes increasingly polluted and to cease to treat that water as bathing water, only one of those objectives at best would be attained. Therefore that interpretation would be contrary to the objectives of the directive. There is no need to determine whether the situation in this respect would be substantially altered by the Commission's 1994 proposal for a new directive, as the Spanish Government seems to assume. [26]

39. Furthermore, the difficulties referred to by the Spanish Government cannot, on factual grounds alone, justify the failure to fulfil its obligations. The Commission was right to observe that the number of places where samples were taken, or ought to have been taken, in Spain has risen over the years. [27] If the Spanish Government's allegation were correct, the number would have been expected to fall. The Spanish Government has not been able to explain that contradiction, which cannot in any case be said to be due to the alleged difficulties involved in interpreting the definition in Article 1 of the directive.

40. As a precaution, I should mention that it is, of course, quite possible for changes of the kind referred to by the Spanish Government to occur in relation to bathing water. For example, if bathing water ceases to be used by bathers for certain reasons, which do not include pollution, a Member State should have the right to stop treating such water as 'bathing water' within the meaning of the directive. However, I consider this to be a matter for examination in each particular case and, if necessary, for proof to be furnished by the Member State in question. An assertion in more or less general terms, such as that made by the Spanish Government in this case, is not sufficient for that purpose.

25 — See point 2 above.

26 — It is interesting that Article 7(3) of the proposal, which is the passage cited by the Spanish Government, provides that, if a Member State permanently prohibits bathing, it must indicate 'the reasons why the bathing water cannot be brought into conformity with the requirements of this directive'.

27 — The Commission's figures are as follows: 1991 — 271, 1992 — 301, 1993 — 312, 1994 — 346, and 1995 — 343.

Conclusion

41. In my opinion, therefore, none of the reasons put forward by the Spanish Government can justify its failure to comply with Article 4 of the directive. Consequently, the Commission's action is well founded. I do not consider it necessary for the Court to examine in more detail Articles 5 and 189 of the EC Treaty, which are also referred to in the Commission's application. The decision on costs follows from Article 69(2) of the Rules of Procedure.

42. In the action brought by the Commission against the United Kingdom for failure to fulfil its obligations, which was mentioned earlier, [28] the form of order sought by the Commission was very similar to that in the present case. In that judgment, the Court chose a different wording without giving any reasons, although it does not appear that a difference in substance was intended. As the wording chosen by the Court seems to me to have the virtue of elegance, I believe it should be used in the present case as well.

Closing remarks

43. This case is the last in which I deliver an opinion before the Court. Therefore I would like to take this opportunity to express my personal thanks to the representatives of the Commission, of the Member States and of other parties to actions who have had to bear with me for 14 years. I thank them for their understanding, their patience and the trouble they have taken to persuade the Court of the justice of their case. The quality of the parties' arguments constitutes an important contribution to the quality of the Advocate General's opinion and of the judgment.

In addition, I should like to thank those who, although they play an important part, are hardly ever mentioned in judgments and opinions. First and foremost, I would like to mention the interpreters and translators without whose work the Court could not deliver judgments at all. So far as the translations are concerned, over the years I have followed the translation of my texts into French, for reasons which may easily be guessed. The quality of these translations, and of those into other languages which I have been able to compare, has always been impressive. Sometimes I have even had the impression that the translation sounded better than the German original. As I cannot name here all the individual translators to whom I owe a debt of gratitude, may I express my heartfelt thanks to all of them through the head of the French Translation Division, Mr J.-P. Vernier, whose patience I have on occasion severely tried. My thanks are also due to the members of the research and documentation department and to the

28 — See footnote 9.

Court's adviser on economic matters, from whose expertise I have always been happy to benefit. The friendly staff of the library have always given their willing assistance in finding documentation concerning a particular subject, and I should like to thank them too here. Of course, I would not wish to forget the messengers, or 'huissiers', as they are called here, who are responsible for the transport and distribution of the internal and external mail. Last but not least, my sincere thanks are due to my personal colleagues, the legal secretaries and the staff of the secretariat, who have carried out diligently and conscientiously all the tasks they have been called upon to perform. It has been a pleasure to work at the Court with all those I have just mentioned, and with my colleagues the advocates general and the judges, whom I need not name individually here.

C — Conclusion

44. I therefore propose that the Court should rule as follows:

(1) By failing to take all the necessary measures to ensure that the quality of inshore bathing waters in Spain conforms to the limit values set in Article 3 of Council Directive 76/160/EEC of 8 December 1975 concerning the quality of bathing water, the Kingdom of Spain has failed to fulfil its obligations under the EC Treaty.

(2) The Kingdom of Spain is ordered to pay the costs.