OPINION OF ADVOCATE GENERAL FENNELLY

delivered on 1 February 1996 *

1. The Commission has brought the present infringement proceedings pursuant to Article 169 of the Treaty. By application of 8 May 1995, registered at the Court on 22 May 1995, it contends that, by not implementing the laws, regulations and administrative provisions necessary to comply with Council Directive 91/156/EEC of 18 March 1991 (hereinafter 'the Directive'), amending Directive 75/442/EEC on waste, [1] or by not informing the Commission of the measures taken to comply with the Directive, the Hellenic Republic has failed to fulfil its obligations both under the Treaty and the Directive.

2. Member States were required by Article 2(1) of the Directive to take the measures necessary to comply with it not later than 1 April 1993, and immediately inform the Commission thereof. Article 2(2) of the Directive obliges the Member States also to inform the Commission of the texts of the main provisions of national law which they have adopted in the field covered by the Directive.

3. Article 189 of the Treaty obliges Member States to adopt the national measures necessary to ensure the attainment of the objectives of each directive. This specific requirement is reinforced by their general duty pursuant to Article 5 of the Treaty 'to take all appropriate measures, whether general or particular, to ensure fulfilment of the obligations arising out of this Treaty or resulting from action taken by the institutions of the Community'.

4. The Greek Government has not disputed its failure to implement the Directive within the time-limit laid down or, indeed, at all. The Government submitted in both its defence of 20 June 1995 and its rejoinder of 8 August 1995 that a ministerial order which would, if adopted, implement the Directive was at an advanced stage of preparation and that only the signature of the relevant ministers was lacking. The delay, it is claimed, is attributable to a parallel, general revision of national waste laws currently being undertaken. However, as the Commission correctly contended in its reply of 3 July 1995, by reference to the constant case-law of the Court, Member States may not plead practical or other difficulties experienced in implementing a directive so as to justify their failure to respect, within the prescribed time-limit, the obligations imposed on them by Community directives.

* Original language: English.

1 — Respectively, OJ 1991 L 78, p. 32, and OJ 1975 L 194, p. 39.

5. As the failure of Greece to adopt the measures necessary to implement the Directive and, thus, end the infringement identified by the Commission during both the course of the pre-contentious stage and in its pleadings in this case has not been remedied, I can only propose that the Court grant the relief sought by the Commission.

Conclusion

6. Accordingly, I am of the opinion that the Court should:

(1) declare that by not implementing within the prescribed period the laws, regulations and administrative provisions necessary to comply with Council Directive 91/156/EEC of 18 March 1991 amending Directive 75/442/EEC on waste, the Hellenic Republic has failed to fulfil its obligations under the third paragraph of Article 189 of the Treaty and under Article 2 of Directive 91/156;

(2) order the Hellenic Republic to pay the costs of these proceedings.