JUDGMENT OF THE COURT (Sixth Chamber)
26 September 1996 *

In Case C-79/95,

Commission of the European Communities, represented by Blanca Rodríguez Galindo, of its Legal Service, acting as Agent, with an address for service in Luxembourg at the office of Carlos Gómez de la Cruz, also of its Legal Service, Wagner Centre, Kirchberg,

applicant,

v

Kingdom of Spain, represented by Alberto José Navarro González, Director General of Community Legal and Institutional Coordination, and Gloria Calvo Diaz, Abogado del Estado, of the State Legal Service, acting as Agents, with an address for service in Luxembourg at the Spanish Embassy, 4-6 Boulevard E. Servais,

defendant,

APPLICATION for a declaration that, by failing to adopt the laws, regulations and administrative provisions necessary to comply with

— Council Directive 89/391/EEC of 12 June 1989 on the introduction of measures to encourage improvements in the health and safety of workers at work (OJ 1989 L 183, p. 1);

* Language of the case: Spanish.

— Council Directive 89/654/EEC of 30 November 1989 concerning the minimum safety and health requirements for the workplace (OJ 1989 L 393, p. 1);

— Council Directive 89/655/EEC of 30 November 1989 concerning the minimum safety and health requirements for the use of work equipment by workers at work (OJ 1989 L 393, p. 13);

— Council Directive 89/656/EEC of 30 November 1989 on the minimum health and safety requirements for the use by workers of personal protective equipment at the workplace (OJ 1989 L 393, p. 18);

— Council Directive 90/269/EEC of 29 May 1990 on the minimum health and safety requirements for the manual handling of loads where there is a risk particularly of back injury to workers (OJ 1990 L 156, p. 9);

— Council Directive 90/270/EEC of 29 May 1990 on the minimum safety and health requirements for work with display screen equipment (OJ 1990 L 156, p. 14);

— Council Directive 90/394/EEC of 28 June 1990 on the protection of workers from the risks related to exposure to carcinogens at work (OJ 1990 L 196, p. 1),

the Kingdom of Spain has failed to fulfil its obligations under those directives,

THE COURT (Sixth Chamber),

composed of: C. N. Kakouris, President of the Chamber, G. F. Mancini, P. J. G. Kapteyn, J. L. Murray (Rapporteur) and H. Ragnemalm, Judges,

Advocate General: A. La Pergola,
Registrar: R. Grass,

having regard to the report of the Judge-Rapporteur,

after hearing the Opinion of the Advocate General at the sitting on 20 June 1996,

gives the following

Judgment

1 By application lodged at the Court Registry on 16 March 1995, the Commission of the European Communities brought an action under Article 169 of the EC Treaty for a declaration that, by failing to adopt the laws, regulations and administrative provisions necessary to comply with

— Council Directive 89/391/EEC of 12 June 1989 on the introduction of measures to encourage improvements in the health and safety of workers at work (OJ 1989 L 183, p. 1);

— Council Directive 89/654/EEC of 30 November 1989 concerning the minimum safety and health requirements for the workplace (OJ 1989 L 393, p. 1);

— Council Directive 89/655/EEC of 30 November 1989 concerning the minimum safety and health requirements for the use of work equipment by workers at work (OJ 1989 L 393, p. 13);

— Council Directive 89/656/EEC of 30 November 1989 on the minimum health and safety requirements for the use by workers of personal protective equipment at the workplace (OJ 1989 L 393, p. 18);

— Council Directive 90/269/EEC of 29 May 1990 on the minimum health and safety requirements for the manual handling of loads where there is a risk particularly of back injury to workers (OJ 1990 L 156, p. 9);

— Council Directive 90/270/EEC of 29 May 1990 on the minimum safety and health requirements for work with display screen equipment (OJ 1990 L 156, p. 14);

— Council Directive 90/394/EEC of 28 June 1990 on the protection of workers from the risks related to exposure to carcinogens at work (OJ 1990 L 196, p. 1),

the Kingdom of Spain has failed to fulfil its obligations under those directives.

2 The Commission points out first of all that, under the third paragraph of Article 189 of the EC Treaty, directives are binding, as to the result to be achieved, upon each Member State to which they are addressed, but leave to the national authorities the choice of form and methods.

3 It goes on to note that by virtue of Article 5 of the Treaty, the Member States are also required to take all appropriate measures, whether general or particular, to ensure fulfilment of the obligations arising out of the Treaty or resulting from action taken by the Community institutions.

4 Furthermore, the obligation arising out of the Treaty is expressly referred to in Article 18(1) of Directive 89/391, Article 10(1) of Directives 89/654, 89/655 and 89/656, Article 9(1) of Directive 90/269, Article 11(1) of Directive 90/270 and Article 19(1) of Directive 90/394, which provide that the Member States are to bring into force the laws, regulations and administrative provisions necessary to comply with those directives by 31 December 1992 at the latest and are to inform the Commission thereof forthwith.

5 The Kingdom of Spain does not deny the alleged failure to fulfil its obligations, but observes that draft legislation intended to transpose not only Directive 89/391 but also other directives such as Council Directive 92/85/EEC of 19 October 1992 on the introduction of measures to encourage improvements in the safety and health at work of pregnant workers and workers who have recently given birth or are breastfeeding (OJ 1992 L 348, p. 1), Council Directive 94/33/EC of 22 June 1994 on the protection of young people at work (OJ 1994 L 216, p. 12) and Council Directive 91/383/EEC of 25 June 1991 supplementing the measures to encourage improvements in the safety and health at work of workers with a fixed-duration employment relationship or a temporary employment relationship (OJ 1991 L 206, p. 19) has been submitted by the Government and published in the *Boletín Oficial de las Cortes Generales* of 12 January 1995 under the heading 'Draft Law on the Prevention of Risks at Work'.

6 According to the Kingdom of Spain, once the law transposing Directive 89/391 into national law has been approved, Directives 89/654, 89/655, 89/656, 90/269, 90/270 and 90/394 will be implemented by royal decree, without prejudice to the provisions already in force.

7 By letter of 16 November 1995, the Kingdom of Spain sent to the Court a copy of Law No 31/95 of 8 November 1995 on the prevention of risks at work which, having been published in the *Boletín Oficial del Estado* No 269 of 10 November 1995 and brought into force the following day, transposed Directive 89/391 into national law.

8 By letter of 15 February 1996, the Commission withdrew its application in so far as it related to Directive 89/391.

9 However, it pursued its application in so far as it was based on the allegations of failure to transpose Directives 89/654, 89/655, 89/656, 90/269, 90/270 and 90/394 within the prescribed period and requested the Court to order the Kingdom of Spain to pay the costs.

10 It follows from all the foregoing considerations that, by failing to adopt within the prescribed period the laws, regulations and administrative provisions necessary to comply with Directives 89/654, 89/655, 89/656, 90/269, 90/270 and 90/394, the Kingdom of Spain has failed to fulfil its obligations under Article 10(1) of Directives 89/654, 89/655 and 89/656, Article 9(1) of Directive 90/269, Article 11(1) of Directive 90/270 and Article 19(1) of Directive 90/394.

Costs

11 Under Article 69(2) of the Rules of Procedure, the unsuccessful party is to be ordered to pay the costs. Since the Kingdom of Spain has been unsuccessful, it must be ordered to pay the costs.

On those grounds,

THE COURT (Sixth Chamber)

hereby:

1. Declares that, by failing to adopt the laws, regulations and administrative provisions necessary to comply with Council Directive 89/654/EEC of

30 November 1989 concerning the minimum safety and health requirements for the workplace, Council Directive 89/655/EEC of 30 November 1989 concerning the minimum safety and health requirements for the use of work equipment by workers at work, Council Directive 89/656/EEC of 30 November 1989 on the minimum health and safety requirements for the use by workers of personal protective equipment at the workplace, Council Directive 90/269/EEC of 29 May 1990 on the minimum health and safety requirements for the manual handling of loads where there is a risk particularly of back injury to workers, Council Directive 90/270/EEC of 29 May 1990 on the minimum safety and health requirements for work with display screen equipment and Council Directive 90/394/EEC of 28 June 1990 on the protection of workers from the risks related to exposure to carcinogens at work, the Kingdom of Spain has failed to fulfil its obligations under Article 10(1) of Directives 89/654, 89/655 and 89/656, Article 9(1) of Directive 90/269, Article 11(1) of Directive 90/270 and Article 19(1) of Directive 90/394;

2. Orders the Kingdom of Spain to pay the costs.

Kakouris Mancini Kapteyn

Murray Ragnemalm

Delivered in open court in Luxembourg on 26 September 1996.

R. Grass C. N. Kakouris

Registrar President of the Sixth Chamber