JUDGMENT OF THE COURT (First Chamber)

20 September 2001 *

In Case C-370/00,

Commission of the European Communities, represented by M. Wolfcarius, acting as Agent, with an address for service in Luxembourg,

applicant,

v

Ireland, represented by D.J. O'Hagan, acting as Agent, with an address for service in Luxembourg,

defendant,

APPLICATION for a declaration that, by failing to adopt the laws, regulations and administrative provisions necessary to comply with Council Directive 96/49/EC of 23 July 1996 on the approximation of the laws of the Member States with regard to the transport of dangerous goods by rail (OJ 1996 L 235, p. 25) and Commission Directive 96/87/EC of 13 December 1996 adapting to technical progress Council Directive 96/49 (OJ 1996 L 335, p. 45), or by failing to inform

* Language of the case: English.

the Commission of those measures, Ireland has failed to fulfil its obligations under those Directives,

THE COURT (First Chamber),

composed of: M. Wathelet, President of the Chamber, P. Jann and L. Sevón (Rapporteur), Judges,

Advocate General: F.G. Jacobs,
Registrar: R. Grass,

having regard to the report of the Judge-Rapporteur,

after hearing the Opinion of the Advocate General at the sitting on 5 July 2001,

gives the following

Judgment

1 By application lodged at the Court Registry on 6 October 2000, the Commission of the European Communities brought an action under Article 226 EC for a

declaration that by failing to adopt the laws, regulations and administrative provisions necessary to comply with Council Directive 96/49/EC of 23 July 1996 on the approximation of the laws of the Member States with regard to the transport of dangerous goods by rail (OJ 1996 L 235, p. 25) and Commission Directive 96/87/EC of 13 December 1996 adapting to technical progress Council Directive 96/49 (OJ 1996 L 335, p. 45), or by failing to inform the Commission of those measures, Ireland has failed to fulfil its obligations under those Directives.

2 Under Article 10(1) of Directive 96/49 and Article 2(1) of Directive 96/87 Member States are required to bring into force the laws, regulations and administrative provisions necessary to comply with those Directives before 1 January 1997 and to inform the Commission thereof forthwith.

3 Taking the view that Directive 96/49 and Directive 96/87 had not been incorporated into Irish law within the prescribed period, the Commission initiated the procedure in respect of failure to fulfil Treaty obligations. On 27 January 2000 and on 1 February 2000, having given Ireland formal notice to submit its observations, the Commission sent two reasoned opinions to Ireland requesting it to adopt the measures necessary to comply therewith within two months from the date of notification of the opinions.

4 Since it received no information as to whether the incorporation of the directives had been completed, the Commission brought the present action.

5 Pointing out the obligations of the Member States under Article 10 EC and the third paragraph of Article 249 EC, the Commission submits that Ireland was required to take all the measures necessary to comply with Directives 96/49 and 96/87.

6 Ireland, which does not deny the failure to fulfil its obligations, states that the Directives in question are in the course of being incorporated into national law.

7 Since the incorporation of Directives 96/49 and 96/87 has not taken place within the prescribed period, the Commission's action must be regarded as well founded.

8 Consequently it must be held that, by failing to adopt the laws, regulations and administrative provisions necessary to comply with Directives 96/49 and 96/87, Ireland has failed to fulfil its obligations under those Directives.

Costs

9 Under Article 69(2) of the Rules of Procedure, the unsuccessful party is to be ordered to pay the costs if they have been applied for in the successful party's pleadings. Since the Commission has applied for costs and Ireland has been unsuccessful, Ireland must be ordered to pay the costs.

On those grounds,

THE COURT (First Chamber)

hereby:

1. **Declares that, by failing to adopt the laws, regulations and administrative provisions necessary to comply with Council Directive 96/49/EC of 23 July 1996 on the approximation of the laws of the Member States with regard to the transport of dangerous goods by rail and Commission Directive 96/87/EC of 13 December 1996 adapting to technical progress Council Directive 96/49/EC, Ireland has failed to fulfil its obligations under those Directives.**

2. **Orders Ireland to pay the costs.**

Wathelet Jann Sevón

Delivered in open court in Luxembourg on 20 September 2001.

R. Grass — Registrar

M. Wathelet — President of the First Chamber