# OPINION OF ADVOCATE GENERAL ALBER

delivered on 25 June 1998 *

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

— declare that, by failing to notify the laws, regulations or administrative provisions necessary to comply with Directive 94/26/EC [1] of 15 June 1994 adapting to technical progress Council Directive 79/196/EEC [2] on the approximation of the laws of the Member States concerning electrical equipment for use in potentially explosive atmospheres employing certain types of protection, or by failing to adopt the measures necessary to comply with it, Ireland has failed to fulfil its obligations under that directive;

— order Ireland to pay the costs.

2. Directive 94/26 adapting Directive 79/196 to technical progress, adopted on 15 June 1994, entered into force, in accordance with Article 3 thereof, 20 days after its publication in the *Official Journal of the European Communities* on 24 June 1994. Under Article 2 of the directive, Member States were obliged to bring into force the necessary provisions in order to comply with the directive by *31 March 1995*.

3. Despite the Commission's letter of formal notice of 2 August 1995 and the reasoned opinion of 30 September 1996, Ireland did not comply with that obligation within the period of two months prescribed in the reasoned opinion.

4. In its defence, the Irish Government stated that the necessary legislative action was intended and might be completed by the time of the hearing in these proceedings. The parties both then agreed to dispense with a hearing, however, so that the Court decided to give judgment without holding a hearing.

## Conclusion

5. The alleged failure to fulfil obligations is beyond doubt, and I therefore propose that judgment be given against Ireland, in accordance with the form of order sought.

* Original language: German.

1 — OJ 1994 L 157, p. 33.

2 — Of 6 February 1979, OJ 1979 L 43, p. 29.