# OPINION OF ADVOCATE GENERAL RUIZ-JARABO COLOMER

delivered on 20 March 1997 *

1. By this application pursuant to Article 169 of the EC Treaty, the Commission seeks a declaration by the Court of Justice that, by failing to adopt the laws, regulations and administrative measures necessary in order to comply with Commission Directive 94/15/EC of 15 April 1994 adapting to technical progress for the first time Council Directive 90/220/EEC on the deliberate release into the environment of genetically modified organisms, [1] the Kingdom of Belgium has failed to fulfil its obligations under that directive.

2. In the course of the pre-litigation procedure the Commission addressed to the Belgian Government a letter before action (9 August 1994) and a reasoned opinion (4 March 1996), requiring it to adopt the measures necessary to comply with the directive. Since neither of those communications elicited a reply from the Belgian Government, the Commission brought this action before the Court of Justice on 30 October 1996.

3. In its observations submitted to the Court, the Belgian Government does not deny the alleged failure to fulfil its obligations, acknowledging that it has not transposed the directive into national law within the period prescribed by Article 2 thereof and which expired on 30 June 1994. It claims, however, that it proposes to adopt the necessary implementing measures as soon as possible.

4. Since it is manifestly clear that, as alleged by the Commission, the Kingdom of Belgium has failed to fulfil its obligations, the application should be upheld.

5. In accordance with Article 69(2) of the Rules of Procedure the defendant should be ordered to pay the costs, which have been applied for by the applicant.

* Original language: Spanish.

1 — OJ 1994 L 103, p. 20.

## Conclusion

6. I therefore propose that the Court should uphold the Commission's application as follows:

(1) declare that, by failing to adopt within the prescribed period the laws, regulations and administrative measures necessary in order to comply with Commission Directive 94/15/EC of 15 April 1994 adapting to technical progress for the first time Council Directive 90/220/EEC on the deliberate release into the environment of genetically modified organisms, the Kingdom of Belgium has failed to fulfil its obligations under the EC Treaty;

(2) order the Kingdom of Belgium to pay the costs.