JUDGMENT OF THE COURT (Sixth Chamber)
22 October 1998 *

In Case C-26/98,

Commission of the European Communities, represented by Hans Christian Støvlbæk, of its Legal Service, and Michael Shotter, a national civil servant seconded to the Commission's Legal Service, acting as Agents, with an address for service in Luxembourg at the office of Carlos Gómez de la Cruz, of its Legal Service, Wagner Centre, Kirchberg,

applicant,

v

Ireland, represented by Michael A. Buckley, Chief State Solicitor, acting as Agent, with an address for service in Luxembourg at the Irish Embassy, 28 Route d'Arlon,

defendant,

APPLICATION for a declaration that, by failing to adopt, or by failing to notify, within the prescribed period the laws, regulations and administrative provisions necessary to comply with Commission Directive 94/26/EC of 15 June 1994 adapting to technical progress Council Directive 79/196/EEC on the approximation of the laws of the Member States concerning electrical equipment for use in potentially explosive atmospheres employing certain types of protection (OJ 1994 L 157, p. 33), Ireland has failed to fulfil its obligations under that directive,

* Language of the case: English.

THE COURT (Sixth Chamber),

composed of: P. J. G. Kapteyn, President of the Chamber, G. Hirsch, G. F. Mancini, H. Ragnemalm (Rapporteur) and R. Schintgen, Judges,

Advocate General: S. Alber,
Registrar: R. Grass,

having regard to the report of the Judge-Rapporteur,

after hearing the Opinion of the Advocate General at the sitting on 25 June 1998,

gives the following

Judgment

1 By application lodged at the Court Registry on 29 January 1998, the Commission of the European Communities brought an action under Article 169 of the EC Treaty for a declaration that, by failing to adopt, or by failing to notify, within the prescribed period the laws, regulations and administrative provisions necessary to comply with Commission Directive 94/26/EC of 15 June 1994 adapting to technical progress Council Directive 79/196/EEC on the approximation of the laws of the Member States concerning electrical equipment for use in potentially explosive atmospheres employing certain types of protection (OJ 1994 L 157, p. 33, hereinafter 'the Directive'), Ireland had failed to fulfil its obligations under that directive.

2 Article 2(1) of the Directive provides that Member States are to bring into force the necessary provisions in order to comply with the Directive

not later than 31 March 1995 and are to inform the Commission thereof forthwith.

3 Since it had not been informed of any measures transposing the Directive by the expiry of the period laid down therein, the Commission on 2 August 1995 sent the Irish Government a letter of formal notice.

4 By letter of 27 February 1996 the Irish Government informed the Commission that no measures necessary to transpose the Directive had yet been adopted.

5 The Commission consequently, on 30 September 1996, sent a reasoned opinion requesting the Irish Government to take the necessary measures to comply with its obligations under the Directive within two months from notification of the opinion.

6 By letter of 27 March 1997 the Irish Government informed the Commission that the measures necessary to transpose the Directive would probably be completed by September 1997.

7 When it did not, however, receive any indication that the transposition procedure had been completed, the Commission brought the present action.

8 Ireland does not dispute the failure to fulfil obligations, but states that the transposition procedure is in progress and should soon be completed.

9 Since the Directive has not been transposed within the period laid down therein, the action brought by the Commission must be held to be well founded.

10 It must therefore be held that, by failing to adopt within the prescribed period the laws, regulations and administrative provisions necessary to comply with the Directive, Ireland has failed to fulfil its obligations under that directive.

Costs

11 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 to be awarded against Ireland and the latter has been unsuccessful, Ireland must be ordered to pay the costs.

On those grounds,

THE COURT (Sixth Chamber),

hereby:

1) Declares that, by failing to adopt within the prescribed period the laws, regulations and administrative provisions necessary to comply with Commission Directive 94/26/EC of 15 June 1994 adapting to technical progress Council

Directive 79/196/EEC on the approximation of the laws of the Member States concerning electrical equipment for use in potentially explosive atmospheres employing certain types of protection, Ireland has failed to fulfil its obligations under that directive;

2) Orders Ireland to pay the costs.

Kapteyn Hirsch Mancini

Ragnemalm Schintgen

Delivered in open court in Luxembourg on 22 October 1998.

R. Grass P. J. G. Kapteyn

Registrar President of the Sixth Chamber