OPINION OF ADVOCATE GENERAL JACOBS

delivered on 23 November 2000 [1]

1. In this case the Commission seeks a declaration that, by failing to adopt the laws, regulations or administrative provisions necessary to comply with European Parliament and Council Directive 95/16/EC of 29 June 1995 on the approximation of laws of the Member States relating to lifts, [2] the French Republic has failed to fulfil its obligations under that Directive.

2. Directive 95/16 seeks to harmonise the safety standards required for lifts prior to their being placed on the market. Article 15(1) provided that Member States were to adopt and publish the laws, regulations and administrative provisions necessary to comply with the Directive by 1 January 1997 and were forthwith to inform the Commission thereof; Member States were to apply those measures with effect from 1 July 1997.

3. The French Government accepts that there has been a delay in the transposition of the Directive and does not contest the order sought by the Commission. It explains the difficulties which have caused that delay, but recognises that those difficulties cannot be relied upon to resist the Commission's application: the Government wishes rather, by explaining the circumstances, to demonstrate its good faith.

4. After the close of the written procedure the French Government, by letter of 3 October 2000, informed the Court that the decree designed to transpose the Directive had been published in the French Official Journal of 27 August 2000. [3]

5. The Commission has not responded to that information and it is not necessary for the Court to reach a view on whether the decree constitutes full if belated implementation of the Directive. According to the Court's well-settled case-law the Commission is entitled to a declaration in proceedings for failure to implement a directive even where the directive is subsequently fully implemented.

1 — Original language: English.

2 — OJ 1995 L 213, p. 1.

3 — Décret n° 2000-810 du 24 août 2000 relatif à la mise sur le marché des ascenseurs, *Journal Officiel de la République française*, 27 août 2000.

Conclusion

6. The Court should therefore in my opinion:

(1) declare that, by failing to adopt the laws, regulations or administrative provisions necessary to comply with European Parliament and Council Directive 95/16/EC of 29 June 1995 on the approximation of the laws of the Member States relating to lifts, the French Republic has failed to fulfil its obligations under that Directive;

(2) order the French Republic to pay the costs.