OPINION OF ADVOCATE GENERAL ALBER

delivered on 22 February 2000 *

1. By this action the Commission is requesting the Court to find that the French Republic has failed to fulfil its obligations under the Treaty and Council Directive 93/104/EC of 23 November 1993 concerning certain aspects of the organisation of working time [1] (hereinafter 'the Directive'). Specifically, the Commission claims that France failed to adopt, or, in the alternative, to communicate to the Commission, the laws, regulations and administrative provisions necessary fully to comply with the Directive within the prescribed period. The provisions in question relate principally to the weekly rest period and the duration of night work. The Commission further requests that the defendant be ordered to pay the costs.

2. Under Article 18(1)(a) of the Directive, the Member States were to adopt the laws, regulations and administrative provisions necessary to comply with the Directive by 23 November 1996, or to ensure by that date that the two sides of industry established the necessary measures by agreement.

3. By letter of 13 March 1997 France's permanent representative to the European Union informed the Commission that most of the provisions in the Directive were already contained in existing French laws, even though complete transposition had not, all in all, been effected. Therefore, there were as yet no provisions relating in particular to the weekly rest period.

4. The Commission called on the French Government, by letter of 30 May 1997 under Article 169 of the EC Treaty (now Article 226 EC), to submit its observations on the alleged failure to fulfil its obligations to transpose the provisions of the directive into national law.

5. Since the Commission received no official answer to that letter, on 20 January 1998 it sent its comments together with reasoning to the French Government.

* Original language: German.

1 — OJ 1993 L 307, p. 18.

6. By letter of 13 March 1998 the French authorities informed the Commission that transposition of the directive into domestic law was not yet fully completed.

7. Accordingly, the Commission brought this action, which was received at the Registry of the Court on 16 February 1999.

8. In its defence the French Government does not dispute that it has yet to implement the provisions of the directive relating to the weekly rest period and the duration of night work. However, it gives an assurance that a corresponding draft law is in the course of being drawn up and will be communicated to the Court and the Commission as soon as possible. The other provisions of the directive have already been duly transposed into French law.

9. It is clear from all of the foregoing that the French Republic has failed to fulfil its obligations as the Commission alleges.

10. The costs of these proceedings are to be paid by the defendant in accordance with Article 69(2) of the Rules of Procedure.

Conclusion

11. I propose that the Court grant the application and:

(1) Declare that, by failing to adopt within the prescribed period all the laws, regulations and administrative provisions necessary to comply with Council Directive 93/104/EC of 23 November 1993 concerning certain aspects of the organisation of working time, the French Republic has failed to fulfil its obligations under the Treaty and that directive;

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