OPINION OF ADVOCATE GENERAL LA PERGOLA

delivered on 5 May 1998 *

1. By application lodged on 1 October 1997, the Commission requested the Court to declare that, by failing to adopt within the prescribed period the measures necessary to comply with Council Directive 90/220/EEC of 23 April 1990 on the deliberate release into the environment of genetically modified organisms [1] and Commission Directive 94/51/EC of 7 November 1994 adapting to technical progress Council Directive 90/219/EEC on the contained use of genetically modified micro-organisms, [2] the Kingdom of Belgium has failed to fulfil its obligations.

2. The defendant Member State does not deny the infringement alleged against it, but simply observes that the measures intended to bring national law into line with those directives are in the process of being adopted. According to the settled case-law of the Court, however, this cannot justify a failure to fulfil obligations. [3]

3. I therefore propose that the Court uphold the application and order the defendant State to pay the costs.

* Original language: Italian.

1 — OJ 1990 L 117, p. 15.

2 — OJ 1994 L 297, p. 29.

3 — See, among others, Case C-147/94 *Commission* v *Spain* [1995] ECR I-1015.