OPINION OF ADVOCATE GENERAL LA PERGOLA

delivered on 5 May 1998 *

1. By application lodged on 30 September 1997 the Commission requested the Court to declare that, by failing to adopt within the prescribed period the measures necessary 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] and with 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 Grand Duchy of Luxembourg has failed to fulfil its obligations.

2. The defendant Member State, while acknowledging that it has not yet transposed the abovementioned directives into national law, points out that the legislative procedures for the implementation of those measures are under way. As the Commission correctly points out, however, the date which must be taken into account when determining whether a Member State has failed to fulfil its obligations is that set in the reasoned opinion. [3] It is not disputed that, at the time, the defendant State had not adopted the provisions necessary to bring national law into line with the abovementioned directives; nor do such provisions appear to have been adopted in the course of the present proceedings. The Grand Duchy of Luxembourg has therefore failed to comply with the directives in question within the prescribed period.

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

* Original language: Italian

1 — OJ 1994 L 103, p. 20.

2 — OJ 1994 L 297, p. 29.

3 — See Case C-302/95 *Commission* v *Italy* [1996] ECR I-6769.