OPINION OF ADVOCATE GENERAL LÉGER

delivered on 20 September 2001 [1]

1. In this action the Commission of the European Communities seeks a declaration that, by failing to adopt, within the prescribed period, the laws, regulations and administrative provisions necessary to comply with Directives 97/41/EC, [2] 98/51/EC [3] and 98/67/EC, [4] the Hellenic Republic has failed to fulfil its obligations under those directives. [5]

2. According to its settled case-law, the Court of Justice considers that, in an action under Article 226 EC, the question whether a Member State has failed to fulfil its obligations must be determined by reference to the situation prevailing in the Member State at the end of the period laid down in the reasoned opinion. [6]

3. In this case it is clear from the documents before the Court that, at the end of the period of two months fixed by the reasoned opinion, that is 5 October 1999, the Hellenic Republic had not adopted the laws, regulations and administrative provisions necessary to comply with Directives 97/41, 98/51 and 98/67. The Greek Government does not dispute those facts, even though it seeks the dismissal of the action.

1 — Original language: French.

2 — Council Directive of 25 June 1997 amending Directives 76/895/EEC, 86/362/EEC, 86/363/EEC and 90/642/EEC relating to the fixing of maximum levels for pesticide residues in and on, respectively, fruit and vegetables, cereals, foodstuffs of animal origin, and certain products of plant origin, including fruit and vegetables (OJ 1997 L 184, p. 33).

3 — Commission Directive of 9 July 1998 laying down certain measures for implementing Council Directive 95/69/EC laying down the conditions and arrangements for approving and registering certain establishments and intermediaries operating in the animal feed sector (OJ 1998 L 208, p. 43).

4 — Commission Directive of 7 September 1998 amending Directives 80/511/EEC, 82/475/EEC, 91/357/EEC and Council Directive 96/25/EC and repealing Directive 92/87/EEC (OJ 1998 L 261, p. 10).

5 — Originally, the Commission's action also sought a declaration that the Hellenic Republic had failed to adopt the laws, regulations and administrative provisions necessary to comply with Council Directive 97/76/EC of 16 December 1997 amending Directive 77/99/EEC and Directive 72/462/EEC with regard to the rules applicable to minced meat, meat preparations and certain other products of animal origin (OJ 1998 L 10, p. 25). However, by notice lodged on 3 May 2001, the Commission discontinued the part of its action concerning that directive.

6 — See, for example, Case C-315/98 *Commission* v *Italy* [1999] ECR I-8001, paragraph 11.

Conclusion

Therefore, I suggest that the Court should uphold the Commission's action and declare that:

(1) By failing to adopt, within the prescribed period, the laws, regulations and administrative provisions necessary to comply with Directives:

— 97/41/EC of the Council of 25 June 1997 amending Directives 76/895/EEC, 86/362/EEC, 86/363/EEC and 90/642/EEC relating to the fixing of maximum levels for pesticide residues in and on, respectively, fruit and vegetables, cereals, foodstuffs of animal origin and certain products of plant origin, including fruit and vegetables,

— 98/51/EC of the Commission of 9 July 1998 laying down certain measures for implementing Council Directive 95/69/EC laying down the conditions and arrangements for approving and registering certain establishments and intermediaries operating in the animal feed sector, and

— 98/67/EC of the Commission of 7 September 1998 amending Directives 80/511/EEC, 82/475/EEC, 91/357/EEC and Council Directive 96/25/EC and repealing Directive 92/87/EEC,

the Hellenic Republic has failed to fulfil its obligations under Article 5(1) of Directive 97/41, Article 10(1) of Directive 98/51 and Article 7(1) of Directive 98/67.

(2) The Hellenic Republic is ordered to pay the costs.