JUDGMENT OF THE COURT (Sixth Chamber)
24 October 1996 *

In Case C-325/95,

Commission of the European Communities, represented by Carmel O'Reilly, of its Legal Service, acting as Agent, with an address for service in Luxembourg at the office of Carlos Gómez de la Cruz, also of its Legal Service, Wagner Centre, Kirchberg,

applicant,

v

Ireland, represented by Michael A. Buckley, Chief State Solicitor, acting as Agent, with an address for service in Luxembourg at the Irish Embassy, 28 Route d'Arlon,

defendant,

APPLICATION for a declaration that, by failing to bring into force the laws, regulations or administrative provisions necessary to comply with:

— Council Directive 91/67/EEC of 28 January 1991 concerning the animal health conditions governing the placing on the market of aquaculture animals and products (OJ 1991 L 46, p. 1);

* Language of the case: English.

— Council Directive 91/492/EEC of 15 July 1991 laying down the health conditions for the production and the placing on the market of live bivalve molluscs (OJ 1991 L 268, p. 1);

— Council Directive 91/493/EEC of 22 July 1991 laying down the health conditions for the production and the placing on the market of fishery products (OJ 1991 L 268, p. 15); and

— Council Directive 92/48/EEC of 16 June 1992 laying down the minimum hygiene rules applicable to fishery products caught on board certain vessels in accordance with Article 3(1)(a)(i) of Directive 91/493/EEC (OJ 1991 L 187, p. 41),

Ireland has failed to fulfil its obligations under those directives.

THE COURT (Sixth Chamber),

composed of: J. L. Murray, President of the Fourth Chamber, acting for the President of the Sixth Chamber, C. N. Kakouris, P. J. G. Kapteyn, G. Hirsch and H. Ragnemalm (Rapporteur), Judges,

Advocate General: G. Cosmas,
Registrar: R. Grass,

having regard to the report of the Judge-Rapporteur,

after hearing the Opinion of the Advocate General at the sitting on 11 July 1996,

gives the following

Judgment

1 By application lodged at the Court Registry on 16 October 1995, the Commission of the European Communities brought an action pursuant to Article 169 of the EC Treaty for a declaration that, by failing to bring into force the laws, regulations or administrative provisions necessary to comply with:

— Council Directive 91/67/EEC of 28 January 1991 concerning the animal health conditions governing the placing on the market of aquaculture animals and products (OJ 1991 L 46, p. 1);

— Council Directive 91/492/EEC of 15 July 1991 laying down the health conditions for the production and the placing on the market of live bivalve molluscs (OJ 1991 L 268, p. 1);

— Council Directive 91/493/EEC of 22 July 1991 laying down the health conditions for the production and the placing on the market of fishery products (OJ 1991 L 268, p. 15); and

— Council Directive 92/48/EEC of 16 June 1992 laying down the minimum hygiene rules applicable to fishery products caught on board certain vessels in accordance with Article 3(1)(a)(i) of Directive 91/493/EEC (OJ 1991 L 187, p. 41),

Ireland has failed to fulfil its obligations under those directives.

2 Article 29(1) of Directive 91/67, the first paragraph of Article 15 of Directive 91/492, the first paragraph of Article 18 of Directive 91/493, and the first paragraph of Article 4 of Directive 92/48 (hereinafter 'the directives in question') provide that the Member States are to bring into force the laws, regulations and administrative provisions necessary to comply with those directives before 1 January 1993.

3 On 12 March 1993, having received no notification of measures transposing the directives in question and with no other information to indicate that Ireland had complied with its obligations, the Commission sent a letter of formal notice to the Irish Government.

4 On 5 July 1993 Ireland replied to the Commission's letter of formal notice, to the effect that measures for transposing the directives in question were being prepared and it was hoped that the directives would be implemented in the near future.

5 On 4 May 1994, since it considered that Ireland had not complied with its letter of formal notice, the Commission issued a reasoned opinion, in which it requested Ireland to take the measures necessary to comply with its obligations under the directives in question within a period of two months from receipt of the opinion.

6 No notification of measures transposing the directives in question was received within the period allowed, whereupon the Commission brought the present proceedings.

7 In its defence, Ireland does not deny that the four directives in question have not been transposed within the prescribed period, but states that the ministerial regulations which will implement them are in the course of preparation.

8 Since transposition of the directives in question has not taken place within the period prescribed therein, the Commission's action must be held to be well founded.

9 It must therefore be held that by failing, within the prescribed period, to adopt the laws, regulations or administrative provisions necessary to comply with the directives in question, Ireland has failed to fulfil its obligations under Article 29(1) of Directive 91/67, the first paragraph of Article 15 of Directive 91/492, the first paragraph of Article 18 of Directive 91/493 and the first paragraph of Article 4 of Directive 92/48.

Costs

10 Under Article 69(2) of the Rules of Procedure the unsuccessful party is to be ordered to pay the costs. Since Ireland has been unsuccessful, it must be ordered to pay the costs.

On those grounds,

THE COURT (Sixth Chamber)

hereby:

1. Declares that, by failing to adopt within the prescribed period the laws, regulations or administrative provisions necessary to comply with:

— Council Directive 91/67/EEC of 28 January 1991 concerning the animal health conditions governing the placing on the market of aquaculture animals and products;

— Council Directive 91/492/EEC of 15 July 1991 laying down the health conditions for the production and the placing on the market of live bivalve molluscs;

— **Council Directive 91/493/EEC of 22 July 1991 laying down the health conditions for the production and the placing on the market of fishery products; and**

— **Council Directive 92/48/EEC of 16 June 1992 laying down the minimum hygiene rules applicable to fishery products caught on board certain vessels in accordance with Article 3(1)(a)(i) of Directive 91/493/EEC,**

Ireland has failed to fulfil its obligations under Article 29(1) of Directive 91/67, the first paragraph of Article 15 of Directive 91/492, the first paragraph of Article 18 of Directive 91/493 and the first paragraph of Article 4 of Directive 92/48;

2. Orders Ireland to pay the costs.

Murray Kakouris Kapteyn

Hirsch Ragnemalm

Delivered in open court in Luxembourg on 24 October 1996.

R. Grass G. F. Mancini

Registrar President of the Sixth Chamber