OPINION OF ADVOCATE GENERAL LÉGER

delivered on 16 September 1997 *

1. In this action the Commission asks the Court:

'(1) to find that, by not adopting within the prescribed period the laws, regulations and administrative provisions necessary to comply with Council Directive 92/119/EEC of 17 December 1992 introducing general Community measures for the control of certain animal diseases and specific measures relating to swine vesicular disease [1] (hereinafter "the directive"), the Kingdom of Belgium has failed to fulfil its obligations under that directive and under the EC Treaty;

(2) to order the Kingdom of Belgium to pay the costs.'

2. Article 27 of the directive provides that Member States are to bring into force the measures necessary to comply with the directive before 1 October 1993 and forthwith to inform the Commission thereof.

3. Since the Belgian Government did not notify it of the measures transposing the directive, and it possessed no other information to support a conclusion that the Kingdom of Belgium had fulfilled its obligation in that respect, the Commission initiated proceedings for failure to fulfil obligations under Article 169 of the Treaty and sent a letter of formal notice to the Belgian Government dated 3 December 1993.

4. Since it received no reply to its letter, the Commission sent a reasoned opinion to the Kingdom of Belgium on 26 September 1994, requiring it to adopt the measures necessary to comply with the opinion within two months of its notification.

5. By letter dated 9 October 1995 the Belgian authorities informed the Commission that existing legislation partially satisfied the requirements of the directive and that a draft royal decree completing its transposition was being prepared.

6. Having received no further communication from the Belgian authorities since that time, the Commission brought the present action by application lodged at the Registry of the Court on 19 June 1996.

* Original language: French.

1 — OJ 1993 L 62, p. 69.

7. The Belgian Government claims that the directive was partially transposed into national law by a number of measures. It explains that two royal decrees must still be adopted in order to complete the transposition of the directive. It justifies the delay in adopting those measures on the grounds of the budgetary implications of one of the two decrees.

8. The Kingdom of Belgium does not deny that it has not, until now, adopted all the measures necessary to transpose the directive.

9. The delay in adopting transposition measures cannot be justified on budgetary grounds since it is settled case-law that a Member State cannot rely on provisions, practices or situations of its own internal legal order in order to justify its failure to respect the obligations and time-limits laid down by a directive. [2]

10. Since the directive was not transposed within the prescribed period, the action brought by the Commission must be regarded as being well founded and, in accordance with Article 69(2) of the Rules of Procedure, the Kingdom of Belgium must be ordered to pay the costs.

Conclusion

11. Accordingly, I propose that the Court should:

(1) declare that, by not adopting within the prescribed period the laws, regulations and administrative provisions necessary to comply with Council Directive 92/119/EEC of 17 December 1992 introducing general Community measures for the control of certain animal diseases and specific measures relating to swine vesicular disease, the Kingdom of Belgium has failed to fulfil its obligations under Article 27 thereof;

(2) order the Kingdom of Belgium to pay the costs.

2 — See, in particular, Case C-107/96 *Commission* v *Spain* [1997] ECR I-3193, paragraph 10.