OPINION OF ADVOCATE GENERAL LÉGER

delivered on 10 June 1999 *

1. In this action the Commission of the European Communities asks the Court of Justice for a declaration that, by failing to adopt, within the period allowed, the laws, regulations and administrative provisions necessary to comply with Council Directive 93/43/EEC of 14 June 1993 on the hygiene of foodstuffs [1] (hereinafter 'the Directive'), the Hellenic Republic has failed to fulfil its obligations under that directive.

2. Under Article 16 of the Directive, Member States were required to bring into force the laws, regulations and administrative provisions necessary to comply with the Directive not later than 30 months after its adoption, that is to say, by 14 December 1995, and immediately to inform the Commission of the measures adopted.

3. Having received no communication regarding the transposition of the Directive into Greek law, the Commission initiated the pre-contentious procedure provided for by Article 169 of the EC Treaty (now Article 226 EC).

4. By letter of 27 February 1996 the Commission gave the Hellenic Republic formal notice to submit its observations within a period of two months.

5. By letter of 14 May 1996 the Hellenic Republic indicated that it was in the process of adopting legislation to transpose the Directive.

* Original language: French.

1 — OJ 1993 L 175, p. 1.

6. On 23 December 1996 the Commission sent the Hellenic Republic a reasoned opinion in which it called on it to comply with the Directive within a period of two months.

7. Having received no reply to that opinion, the Commission brought the present action.

8. Whilst it has asked for the action to be dismissed, the Hellenic Republic does not dispute the claim made against it. In its defence it observed that the legislation implementing the Directive was very shortly to be signed by the competent ministers.

9. Thus, in accordance with the case-law of the Court of Justice,[2] the Court is invited to uphold the Commission's action.

10. Under Article 69(2) of the Rules of Procedure, the unsuccessful party is to be ordered to pay the costs if they have been applied for in the successful party's pleadings. Since the Commission has applied for costs and the Hellenic Republic has been unsuccessful, it should be ordered to pay the costs.

2 — See, for example, Case C-283/97 *Commission* v *Belgium* [1998] ECR I-6081, and Case C-386/97 *Commission* v *Greece* [1998] ECR I-6127.

Conclusion

11. In the light of the foregoing considerations, I propose that the Court:

— declare that, by failing to implement, within the prescribed period, the laws, regulations and administrative provisions necessary to comply with Council Directive 93/43/EEC of 14 June 1993 on the hygiene of foodstuffs, the Hellenic Republic has failed to fulfil its obligations under Article 16 of that directive, and

— order the Hellenic Republic to pay the costs.