JUDGMENT OF THE COURT (Fifth Chamber)
14 December 1995 *

In Case C-161/94,

Commission of the European Communities, represented by José Luis Iglesias Buhigues, Legal Adviser, and James Macdonald Flett, of its Legal Service, acting as Agents, with an address for service in Luxembourg at the office of Carlos Gómez de la Cruz, 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 and administrative provisions necessary to comply with Council Directive 90/425/EEC of 26 June 1990 concerning veterinary and zootechnical checks applicable in intra-Community trade in certain live animals and products with a view to the completion of the internal market (OJ 1990 L 224, p. 29), Ireland has failed to fulfil its obligations under that directive, in particular Article 26 thereof, and under the Treaty establishing the European Community,

* Language of the case: English.

THE COURT (Fifth Chamber),

composed of: D. A. O. Edward (Rapporteur), President of the Chamber, J. C. Moitinho de Almeida, C. Gulmann, L. Sevón and M. Wathelet, Judges,

Advocate General: C. O. Lenz,
Registrar: R. Grass,

having regard to the report of the Judge-Rapporteur,

after hearing the Opinion of the Advocate General at the sitting on 16 November 1995,

gives the following

Judgment

1 By application lodged at the Court Registry on 15 June 1994, the Commission of the European Communities brought an action under Article 169 of the EC Treaty for a declaration that, by failing to bring into force the laws, regulations and administrative provisions necessary to comply with Council Directive 90/425/EEC of 26 June 1990 concerning veterinary and zootechnical checks applicable in intra-Community trade in certain live animals and products with a view to the completion of the internal market (OJ 1990 L 224, p. 29, hereinafter 'the Directive'), Ireland has failed to fulfil its obligations under that directive, in particular Article 26 thereof, and under the Treaty establishing the European Community.

2 Under Article 26 of the Directive the Member States were to bring into force the laws, regulations and administrative provisions necessary to comply with the Directive by 31 December 1991 at the latest and forthwith to inform the Commission thereof.

3 Since the Commission had not been informed of any provisions adopted by Ireland in order to comply with the Directive and since it had no other evidence from which it could conclude that Ireland had fulfilled its obligations under the Directive, the Commission, by letter of 14 October 1992, gave Ireland formal notice of its default in this matter.

4 Since there was no reply to that letter, the Commission sent to Ireland on 11 May 1993 a reasoned opinion in accordance with Article 169 of the Treaty, drawing attention to Ireland's obligations under the Directive.

5 By letter of 15 July 1993 from the Permanent Representation of Ireland to the European Communities, the Irish authorities stated that a procedure for transposing the Directive was in progress. Since it had not received any notification from Ireland that the necessary provisions had been brought into force, the Commission initiated the present proceedings.

6 The Commission points out the obligations to which Ireland is subject in terms both of the Directive, in particular Article 26 thereof, and the first paragraph of Article 5 and the third paragraph of Article 189 of the EC Treaty. It states that, by failing to bring into force the provisions necessary to comply with the Directive, Ireland has failed to fulfil its obligations.

7 Ireland observes that in a letter of 5 October 1994 from its Permanent Representation to the European Communities it informed the Commission that it had complied with the Directive, save in so far as the obligations with respect to fish and

fishery products were concerned. As regards those obligations, it had indicated that the procedure for transposing them into national law was in progress.

8 While it accepts that Ireland has adopted some transposition measures, the Commission maintains that, by failing to comply with all its obligations under the Directive, Ireland has still failed to discharge its duty under it.

9 Since Ireland has not adopted all the provisions necessary to comply with the Directive within the period prescribed in Article 26 thereof, the failure alleged by the Commission in that regard must be found to be established.

10 It must therefore be held that by failing to bring into force all the laws, regulations and administrative provisions necessary to comply with the Directive, Ireland has failed to fulfil its obligations under Article 26 of the Directive.

Costs

11 Under Article 69(2) of the Rules of Procedure, the unsuccessful party is to be ordered to pay the costs if they are asked for in the other party's pleadings. Since the Commission has asked for costs and Ireland has been unsuccessful, Ireland must be ordered to pay the costs.

On those grounds,

THE COURT (Fifth Chamber)

hereby:

1. **Declares that, by failing to bring into force all the laws, regulations and administrative provisions necessary to comply with Council Directive 90/425/EEC of 26 June 1990 concerning veterinary and zootechnical checks applicable in intra-Community trade in certain live animals and products with a view to the completion of the internal market, Ireland has failed to fulfil its obligations under Article 26 of that directive;**

2. **Orders Ireland to pay the costs.**

Edward Moitinho de Almeida Gulmann

Sevón Wathelet

Delivered in open court in Luxembourg on 14 December 1995.

R. Grass
Registrar

D. A. O. Edward
President of the Fifth Chamber