JUDGMENT OF THE COURT (Fifth Chamber)
11 August 1995 *

In Case C-240/94,

Commission of the European Communities, represented by Thomas F. Cusack, Legal Adviser, and by David McIntyre, national official seconded to the 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 omitting to bring into force the laws, regulations and administrative provisions necessary to comply with Council Directive 89/336/EEC of 3 May 1989 on the approximation of the laws of the Member States relating to electromagnetic compatibility (OJ 1989 L 139, p. 19), and Council Directive 92/31/EEC of 28 April 1992 amending Directive 89/336/EEC (OJ 1992 L 126, p. 11), Ireland has failed to fulfil its obligations under Article 12(1) and Article 2(1) of the abovementioned directives and Article 189 of the EC Treaty,

* Language of the case: English.

THE COURT (Fifth Chamber),

composed of: C. Gulmann, President of the Chamber, P. Jann, J. C. Moitinho de Almeida, D. A. O. Edward and L. Sevón (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 8 June 1995,

gives the following

Judgment

1 By application lodged at the Court Registry on 30 August 1994, the Commission of the European Communities brought an action under Article 169 of the EC Treaty for a declaration that, by omitting to bring into force the laws, regulations and administrative provisions necessary to comply with Council Directive 89/336/EEC of 3 May 1989 on the approximation of the laws of the Member States relating to electromagnetic compatibility (OJ 1989 L 139, p. 19, hereinafter 'Directive 89/336'), and with Council Directive 92/31/EEC of 28 April 1992 amending Directive 89/336 (OJ 1992 L 126, p. 11, hereinafter 'Directive 92/31'), Ireland has failed to fulfil its obligations under Article 12(1) and 2(1) of the abovementioned directives and Article 189 of the EC Treaty.

2 Under Article 12(1) of Directive 89/336 and Article 2(1) of Directive 92/31 the Member States were required, by 1 July 1991 as regards the first-mentioned directive and not later than 28 July 1992 as regards the second directive, to adopt and publish the laws, regulations and administrative provisions necessary to comply with those directives and to inform the Commission thereof. Those articles also required the Member States to apply those provisions as from 1 January 1992 and 28 October 1992 respectively.

3 Since it had received no communication concerning the measures taken to transpose the directives in Ireland, the Commission, by letter of 14 October 1992, addressed to the Irish Government a letter of formal notice requiring it to submit its observations within a period of two months, in accordance with Article 169 of the Treaty.

4 Since no reply was received in response to that letter of formal notice, the Commission on 2 July 1993 issued a reasoned opinion requesting Ireland to take the measures necessary to comply with it within a period of two months.

5 By letter of 17 September 1993 the Irish Government informed the Commission that it was hoping to be in a position to transpose Directive 89/336, as amended by Directive 92/31, into national law before the end of 1993. Having received no further notification since then, the Commission brought the present proceedings.

6 In its application the Commission recalled the obligations incumbent on the Member States under Articles 5 and 189 of the Treaty. It noted that Ireland had not taken the measures necessary to comply with the requirements of Directives 89/336 and 92/31 and that, therefore, it had failed to fulfil its obligations.

7 Ireland submitted that the preparation of the ministerial regulations necessary in order to give effect to the obligations imposed by those directives was at an advanced stage and that they would be ready in the near future. Once the transposition measures had been adopted, Ireland would propose to the Commission that it terminate these proceedings.

8 Since the directives have not been transposed within the prescribed periods, the declaration must be granted in the terms sought by the Commission.

Costs

9 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. The Commission asked for Ireland 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 (Fifth Chamber)

hereby:

1. **Declares that, by omitting to bring into force the laws, regulations and administrative provisions necessary to comply with Council Directive 89/336/EEC of 3 May 1989 on the approximation of the laws of the Member States relating to electromagnetic compatibility and Council Directive 92/31/EEC of 28 April 1992 amending Directive 89/336, Ireland has failed to fulfil its obligations under Article 12(1) and Article 2(1) of the abovementioned directives and Article 189 of the EC Treaty;**

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

Gulmann Jann Moitinho de Almeida

Edward Sevón

Delivered in open court in Luxembourg on 11 August 1995.

R. Grass C. Gulmann

Registrar acting as President of the Fifth Chamber