OPINION OF ADVOCATE GENERAL LA PERGOLA
delivered on 4 July 1996 *

1. By application lodged on 4 October 1995, the Commission seeks a declaration by the Court that, by failing within the prescribed period to adopt the measures necessary in order to comply with Council Directives 90/219/EEC of 23 April 1990 on the contained use of genetically modified micro-organisms [1] and 90/220/EEC of 23 April 1990 on the deliberate release into the environment of genetically modified organisms, [2] the Grand Duchy of Luxembourg has failed to fulfil its obligations under the EC Treaty.

2. It is sufficient to point out in this respect that the Luxembourg Government does not deny the alleged infringements. In its observations, it merely states that the transposition of those directives is under way, which, according to the Court's settled case-law, [3] cannot justify a failure to fulfil obligations.

Conclusion

I therefore propose that the Court should uphold the application and order the defendant Member State to pay the costs, in accordance with Article 69(2) of the Rules of Procedure.

* Original language: Italian.
1 — OJ 1990 L 117, p. 1.
2 — OJ 1990 L 117, p. 15.
3 — See, *ex multis*, Case C-147/94 *Commission* v *Spain* [1995] ECR I-1015.