OPINION OF ADVOCATE GENERAL LÉGER
delivered on 20 March 1997 *

1. By application lodged at the Court Registry on 3 April 1996, the Commission of the European Communities brought an action under Article 169 of the EC Treaty for a declaration that by failing to adopt and bring into force and by not communicating within the prescribed period the laws, regulations and administrative provisions necessary to comply with Council Directive 91/156/EEC of 18 March 1991 amending Directive 75/442/EEC on waste, [1] the Kingdom of Spain had failed to fulfil its obligations under that directive and under Articles 5 and 189 of the EC Treaty.

2. Article 2(1) of the Directive provides that Member States are to bring into force the laws, regulations and administrative provisions necessary to comply with the Directive not later than 1 April 1993 and forthwith to inform the Commission thereof.

3. On 9 August 1993, having received no communication of the implementing measures from the Spanish Government and having no other information which would lead it to believe that the Kingdom of Spain had discharged its obligation to bring the necessary provisions into force, the Commission, by letter No SG(93)D/13629, requested the Spanish Government to communicate the provisions of domestic law adopted in the sphere covered by the Directive.

4. In the absence of any communication in response to this, the Commission, on 19 July 1994, delivered a reasoned opinion pursuant to Article 169 of the Treaty, in which it requested the Spanish Government to take the necessary measures within two months.

5. The Commission states that at the time when it brought this action it had still not been informed of the adoption of the draft law transposing the Directive.

6. The Kingdom of Spain states that the adoption of the text, entitled 'Anteproyecto de Ley Básica de Residuos' (preliminary draft basic law on waste), was delayed following the dissolution of the Spanish

* Original language: French.

1 — OJ 1991 L 78, p. 32, hereinafter 'the Directive'.

Parliament and the general elections held in March 1996.

7. The Kingdom of Spain adds that it hopes that the procedure for the adoption of the law will be rapidly resumed and that the law will receive final approval as soon as Parliament is functioning normally once more.

8. It should be pointed out, first, that the Kingdom of Spain does not deny that the measures necessary to transpose the Directive into national law have not yet been adopted.

9. Secondly, it is settled case-law that Member States must carry out their obligations under directives within the time prescribed therein and that a Member State may not plead provisions, practices or circumstances in its internal legal system to justify a failure to comply with the obligations and time-limits laid down in a directive. [2]

10. Consequently, the Commission's application must be upheld and, pursuant to Article 69(2) of the Rules of Procedure, the unsuccessful party must be ordered to pay the costs.

Conclusion

11. I therefore propose that the Court should:

(1) declare that, by not adopting within the prescribed time the laws, regulations and administrative provisions necessary to comply with Council Directive 91/156/EEC of 18 March 1991 amending Directive 75/442/EEC on waste, the Kingdom of Spain has failed to fulfil its obligations under Article 2(1) of that directive;

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

2 — See, *inter alia*, Case C-259/94 *Commission* v *Greece* [1995] ECR I-1947, paragraph 5, and Case C-205/96 *Commission* v *Belgium* [1997] ECR I-795, paragraph 10.