JUDGMENT OF THE COURT (First Chamber)

8 June 2000 *

In Case C-190/99,

Commission of the European Communities, represented by P. Oliver, Legal Adviser, acting as Agent, with an address for service in Luxembourg at the Chambers of C. Gómez de la Cruz, of its Legal Service, Wagner Centre, Kirchberg,

applicant,

v

Ireland, represented by M.A. Buckley, Chief State Solicitor, acting as Agent, with an address for service in Luxembourg at the Embassy of Ireland, 28 Route d'Arlon,

defendant,

* Language of the case: English.

APPLICATION for a declaration that, by failing to adopt the laws, regulations or administrative provisions necessary to comply with Council Directive 96/43/EC of 26 June 1996 amending and consolidating Directive 85/73/EEC in order to ensure financing of veterinary inspections and controls on live animals and certain animal products and amending Directives 90/675/EEC and 91/496/EEC (OJ 1996 L 162, p. 1) and/or by failing to inform the Commission thereof, Ireland has failed to fulfil its obligations under that directive,

THE COURT (First Chamber),

composed of: L. Sevón, President of the Chamber, P. Jann (Rapporteur) and M. Wathelet, Judges,

Advocate General: J. Mischo,
Registrar: R. Grass,

having regard to the report of the Judge-Rapporteur,

after hearing the Opinion of the Advocate General at the sitting on 14 March 2000,

gives the following

Judgment

1 By application lodged at the Court Registry on 21 May 1999, the Commission of the European Communities brought an action under Article 226 EC for a declaration that, by failing to adopt the laws, regulations or administrative provisions necessary to comply with Council Directive 96/43/EC of 26 June 1996 amending and consolidating Directive 85/73/EEC in order to ensure financing of veterinary inspections and controls on live animals and certain animal products and amending Directives 90/675/EEC and 91/496/EEC (OJ 1996 L 162, p. 1) and/or by failing to inform the Commission thereof, Ireland has failed to fulfil its obligations under that directive.

2 Article 1 of Directive 96/43 provides that the title and articles of and the annexes to Council Directive 85/73/EEC of 29 January 1985 on the financing of health inspections and controls of fresh meat and poultrymeat (OJ 1985 L 32, p. 14) are to be replaced by the text set out in the annex to Directive 96/43. The new title of Directive 85/73 is henceforth Council Directive 85/73/EEC of 29 January 1985 on the financing of veterinary inspections and controls covered by Directives 89/662/EEC, 90/425/EEC, 90/675/EEC and 91/496/EEC.

3 The first subparagraph of Article 4(1) of Directive 96/43 provides as follows in relation to the implementation of the provisions of Directive 85/73, as amended and consolidated by Directive 96/43:

'Member States shall bring into force laws, regulations and administrative provisions necessary to comply with:

(i) the provisions of Article 7 and of Chapter I(1)(e) of Annex A by 1 July 1996;

(ii) the provisions of Chapter II, Section II of Chapter III of Annex A and Chapter II of Annex C by 1 January 1997;

(iii) other amendments by 1 July 1997.'

4 The second subparagraph of Article 4(1) of Directive 96/43, however, provides:

'Member States shall have a further period which can extend to 1 July 1999 within which to comply with the provisions of Section I of Chapter III of Annex A.'

5 Article 4(2) of Directive 96/43 provides:

'Member States shall communicate to the Commission the text of the main provisions of national law which they adopt in the field governed by this Directive.'

6 Having received no notification of any measure designed to transpose Directive 96/43 into the Irish legal system, and having in its possession no other information allowing it to conclude that Ireland had complied with its obligation, the Commission, by letter of 5 November 1997, put that Member State on formal notice to submit to it its observations within two months, in accordance with the procedure set out in Article 226 EC.

7 The Irish authorities did not reply to that letter of formal notice.

8 The Commission accordingly formed the view that Ireland had not yet transposed Directive 96/43 and addressed, on 10 August 1998, a reasoned opinion to Ireland requesting it to take the measures necessary for compliance with its obligations under that directive within two months of notification.

9 Since no other information concerning the transposition of Directive 96/43 into domestic Irish law was notified to it, the Commission decided to bring the present

action. It states in paragraph 8 of its application that the action relates to the provisions referred to in the three indents of the first subparagraph of Article 4(1) of Directive 96/43.

10 In its defence, the Irish Government does not deny its failure to transpose Directive 96/43. It does, however, state that the measures necessary to ensure such transposition are shortly to be adopted and for that reason it requests the Court to suspend the proceedings for three months, during which period those measures ought to be adopted.

11 It should be pointed out in this regard that, in an action under Article 226 EC, the question whether a Member State has failed to fulfil its obligations must be determined by reference to the situation prevailing in the Member State at the end of the period laid down in the reasoned opinion and that the Court cannot take account of any subsequent changes (see, *inter alia*, the judgment of 23 March 2000 in Case C-327/98 *Commission* v *France* [2000] ECR I-1851, paragraph 28).

12 It is clear from the explanations provided by the Irish Government that the provisions referred to in the first subparagraph of Article 4(1) of Directive 96/43 were not transposed within the periods prescribed by that article. That being so, the action brought by the Commission in that regard must be considered to be well founded.

13 It must therefore be held that, by failing to adopt within the prescribed periods the laws, regulations and administrative provisions necessary to comply with the

provisions referred to in the first subparagraph of Article 4(1) of Directive 96/43, Ireland has failed to fulfil its obligations under that subparagraph.

Costs

14 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 asked that Ireland be ordered to pay the costs and the latter has been unsuccessful, Ireland must be ordered to pay the costs.

On those grounds,

THE COURT (First Chamber),

hereby:

1. **Declares that, by failing to adopt within the prescribed periods the laws, regulations and administrative provisions necessary to comply with the provisions referred to in the first subparagraph of Article 4(1) of Council**

Directive 96/43/EC of 26 June 1996 amending and consolidating Directive 85/73/EEC in order to ensure financing of veterinary inspections and controls on live animals and certain animal products and amending Directives 90/675/EEC and 91/496/EEC, Ireland has failed to fulfil its obligations under that subparagraph;

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

Sevón Jann Wathelet

Delivered in open court in Luxembourg on 8 June 2000.

R. Grass

Registrar

L. Sevón

President of the First Chamber