OPINION OF ADVOCATE GENERAL LÉGER

delivered on 20 September 2001 [1]

1. In this action the Commission of the European Communities seeks a declaration that, by failing to adopt, within the prescribed period, the laws, regulations and administrative provisions necessary to comply with Directive 98/51/EC, [2] the Italian Republic has failed to fulfil its obligations under that directive. [3]

2. According to its settled case-law, the Court of Justice considers 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. [4]

3. In this case it is clear from the documents before the Court that, at the end of the period of two months fixed by the reasoned opinion, that is 14 September 1999, the Italian Republic had not adopted the laws, regulations and administrative provisions necessary to comply with Directive 98/51. The Italian Government does not dispute that fact.

1 — Original language: French.

2 — Commission Directive of 9 July 1998 laying down certain measures for implementing Council Directive 95/69/EC laying down the conditions and arrangements for approving and registering certain establishments and intermediaries operating in the animal feed sector (OJ 1998 L 208, p. 43).

3 — Originally, the Commission's action also sought a declaration that the Italian Republic had failed to adopt the laws, regulations and administrative provisions necessary to comply with Council Directive 97/41/EC of 25 June 1997 amending Directives 76/895/EEC, 86/362/EEC, 86/363/EEC and 90/642/EEC relating to the fixing of maximum levels for pesticide residues in and on, respectively, fruit and vegetables, cereals, foodstuffs of animal origin, and certain products of plant origin, including fruit and vegetables (OJ 1997 L 184, p. 33) and Council Directive 97/76/EC of 16 December 1997 amending Directive 77/99/EEC and Directive 72/462/EEC with regard to the rules applicable to minced meat, meat preparations and certain other products of animal origin (OJ 1998 L 10, p. 25). However, by notice lodged on 21 May 2001, the Commission discontinued the part of its action concerning those two directives.

4 — See, for example, Case C-315/98 *Commission* v *Italy* [1999] ECR I-8001, paragraph 11.

Conclusion

4. Therefore, I suggest that the Court should uphold the Commission's action and declare that:

(1) By failing to adopt, within the prescribed period, the laws, regulations and administrative provisions necessary to comply with Directive 98/51/EC of the Commission of 9 July 1998 laying down certain measures for implementing Council Directive 95/69/EC laying down the conditions and arrangements for approving and registering certain establishments and intermediaries operating in the animal feed sector the Italian Republic has failed to fulfil its obligations under Article 10(1) of the directive.

(2) The Italian Republic is ordered to pay the costs.