OPINION OF ADVOCATE GENERAL MISCHO

delivered on 18 January 2001 [1]

1. The Commission of the European Communities is seeking a declaration from the Court of Justice that, by failing to adopt the laws, regulations and administrative provisions necessary to comply with Council Directives 96/24/EC of 29 April 1996 amending Directive 79/373/EEC on the marketing of compound feedingstuffs [2] and 96/25/EC of 29 April 1996 on the circulation of feed materials, amending Directives 70/524/EEC, 74/63/EEC, 82/471/EEC and 93/74/EEC and repealing Directive 77/101/EEC, [3] the Hellenic Republic has failed to fulfil its obligations under the EC Treaty and those directives.

2. The Commission observes in that regard that under the third paragraph of Article 249 EC a directive is binding, as to the result to be achieved, upon each Member State to which it is addressed, but leaves to the national authorities the choice of form and methods for achieving that result. The Commission adds that, in accordance with the first paragraph of Article 10 EC, Member States are to take all appropriate measures, whether general or particular, to ensure fulfilment of the obligations arising out of the Treaty or resulting from action taken by the institutions of the Community and points out that those obligations include observing the time-limits prescribed by directives.

3. In the present case Article 2 of Directive 96/24 and Article 17 of Directive 96/25 provide that Member States are to bring into force not later than 30 June 1998 the laws, regulations and administrative provisions necessary to comply with the directives and that they are to inform the Commission as soon as they have done so.

4. The Hellenic Republic concurs with that analysis and, furthermore, its defence contains an admission that the necessary measures were not adopted either within the period prescribed by Directives 96/24 and 96/25, or subsequently.

5. It does point out, however, that the competent authorities within the Ministry of Agriculture will very shortly be coming to the end of preparing the measures necessary for transposition.

6. It must be recalled, however, that it is settled case-law that the question whether a Member State has failed to fulfil its obligations must be determined by reference to the end of the period laid down in the reasoned opinion. [4] As we have seen, it is

1 — Original language: French.

2 — OJ 1996 L 125, p. 33.

3 — OJ 1996 L 125, p. 35.

4 — Case C-166/97 *Commission* v *France* [1999] ECR I-1719.

not disputed that at that time the defendant had failed to fulfil its obligations under Directives 96/24 and 96/25.

7. Accordingly, it follows that the Commission's application must be upheld and the Hellenic Republic ordered to pay the costs.

Conclusion

8. For the reasons set out above, I propose that the Court declare that:

— by failing to adopt the laws, regulations and administrative provisions necessary to comply with Council Directive 96/24/EC of 29 April 1996 amending Directive 79/373/EEC on the marketing of compound feedingstuffs and Council Directive 96/25/EC of 29 April 1996 on the circulation of feed materials, amending Directives 70/524/EEC, 74/63/EEC, 82/471/EEC and 93/74/EEC and repealing Directive 77/101/EEC, the Hellenic Republic has failed to fulfil its obligations under those directives;

— the defendant is to pay the costs.