OPINION OF ADVOCATE GENERAL TIZZANO

delivered on 16 January 2003 [1]

1. In the present proceedings under Article 141(2) EA brought on 13 December 2001, the Commission of the European Communities seeks a declaration that, by not adopting, or in the alternative, by not communicating to the Commission, all the laws, regulations and administrative provisions necessary to comply with Council Directive 96/29/Euratom of 13 May 1996 laying down basic safety standards for the protection of the health of workers and the general public against the dangers arising from ionizing radiation (OJ 1996 L 159, p. 1, hereinafter 'the directive'), the French Republic has failed to fulfil its obligations under that directive.

2. Under Article 55 of the directive the Member States were to bring into force the laws, regulations and administrative provisions necessary to comply with the directive before 13 May 2000 and to inform the Commission thereof forthwith.

3. By letter of 17 April 2000, the French Republic communicated draft provisions for the transposition of the directive into national law, in accordance with Article 33 EA. However, the French authorities did not subsequently provide the Commission with any further information regarding the adoption of the measures necessary to comply with the directive.

4. The Commission therefore served notice on the French Republic by letter of 28 July 2000. In reply, France stated that, whilst it was doing its utmost, it had not yet adopted measures to transpose the directive. Therefore, on 17 January 2001, the Commission sent a reasoned opinion laying down a period of two months within which France had to comply with its obligations under the directive. Following that opinion, the French Republic communicated to the Commission certain measures transposing the directive. However, since the directive was still not fully transposed into French law within the period prescribed in the reasoned opinion, the Commission brought the present action.

5. Without denying the Commission's allegations, the French Government merely admitted in its defence that, upon the

1 — Original language: Italian.

expiry of the period prescribed in the reasoned opinion, the provisions necessary for the transposition of the directive had still not all been adopted because the adoption procedure had taken longer than anticipated.

6. I consider, therefore, that the action must succeed and the French Republic must be ordered to pay the costs in accordance with the order sought by the Commission.

Conclusion

7. I propose that the Court should:

(1) declare that, by failing to adopt all the laws, regulations and administrative provisions necessary to comply with Council Directive 96/29/Euratom of 13 May 1996 laying down basic safety standards for the protection of the health of workers and the general public against the dangers arising from ionizing radiation, the French Republic has failed to fulfil its obligations under that directive;

(2) order the French Republic to pay the costs.