OPINION OF MR ADVOCATE GENERAL CAPOTORTI DELIVERED ON 31 MARCH 1982 [1]

Mr President,
Members of the Court,

1. This opinion is given in connection with three actions brought by the Commission against the Netherlands pursuant to the second paragraph of Article 169 of the EEC Treaty. In the first two actions, giving rise to Cases 96/81 and 97/81, it is alleged that the Kingdom of the Netherlands has failed to observe Council Directive No 76/160/EEC of 8 December 1975 concerning the quality of bathing water and Council Directive No 75/440/EEC of 16 June 1975 concerning the quality required of surface water intended for the abstraction of drinking water in the Member States. The third action, which gave rise to Case 100/81, seeks to establish that the Netherlands have not implemented Council Directive No 74/561/EEC of 12 November 1974 on admission to the occupation of road-haulage operator in national and international transport operations. I should say at once that the problems raised in Cases 96 and 97/81 lend themselves to be dealt with jointly and moreover deserve particularly detailed consideration in view of their importance and complexity. On the other hand the issues of fact and law in Case 100/81 are fairly simple and I will consider them briefly after discussion of the matters involved in the first two cases.

2. It is appropriate at the outset to summarize the content of Directives Nos 76/160 and 75/440. Both are based on Articles 100 and 235 of the EEC Treaty and their object is to harmonize the legislative provisions of the Member States in the fields indicated in their respective titles, for the protection of the environment and public health. Each of the directives has an annex, setting out, in the case of the first directive, the qualitative requirements for bathing water and, in the case of the second directive, such requirements for surface water intended for the abstraction of drinking water. Those requirements take the form of a number of physical, chemical and microbiological parameters. The main obligations imposed on the Member States by Directive No 76/160 are: (a) to set, for all bathing areas or for each individual bathing area, the values applicable to bathing water for the parameters given in the annex, such values to be no less stringent than those indicated in the annex (Article 3); (b) to take all necessary measures to ensure that, within 10 years, the quality of bathing water conforms to the limit values (Article 4 (1)); (c) to carry out periodical sampling operations, the frequency of which is indicated in the annex (Article 6 (1)); (d) to carry out and periodically to repeat scrupulous local investigations to determine the volume and nature of all polluting and potentially polluting discharges (Article 6 (3)). Similarly, Directive No 75/440 provides that the Member States must:

1 — Translated from the Italian.

(a) set, for all sampling points or for each individual sampling point, the applicable values for the relevant parameters, such values to be no less stringent than those indicated in the annex (Article 3); (b) take all necessary measures to ensure that the surface water conforms to the prescribed values (Article 4 (1)); (c) draw up a plan of action and a 10-year programme to improve the quality of the environment and of water in particular (Article 4 (2)); (d) not utilize for the abstraction of drinking water surface water having characteristics falling short of the limit values (Article 4 (3)); (e) carry out sampling operations and analyses, the frequency of which is a matter determined by the national authorities.

Finally it should be emphasized that in both cases the Member States are placed under an obligation to bring into force the laws, regulations and administrative provisions needed to ensure compliance with the directives in question within two years and to inform the Commission thereof forthwith (Article 12 (1) of Directive No 76/160; Article 10 of Directive No 75/440).

3. The sequence of events preceding the action in Case 96/81 may be summarized as follows.

In response to two requests from the Commission for information as to the measures adopted or envisaged by the Netherlands to implement Directive No 76/160, the competent ministerial authority in that country, by letter of 28 March 1978, stated in the first place that preparations were being made for amendment of the law relating to the pollution of surface water in order to lay down standards intended to ensure — bearing in mind that in the Netherlands the water authorities were decentralized — that the minimum quality required for the various functions of surface water would be maintained throughout the country. The Netherlands authority observed that "this legislative amendment therefore has great significance in connection with the implementation of the directive".

The same letter also acknowledged that it was necessary to adopt rules enabling the use of surface water for bathing purposes to be prohibited where such water did not satisfy the conditions laid down in the directive. Those rules would involve an amendment to the law relating to hygiene and safety in bathing establishments. The letter then referred to an extension of the water-sampling programme then in force "in order to adapt it to the provisions of the directive". Finally, it was stated that the Netherlands had for a long time imposed certain requirements for the protection of health to which bathing water had to conform and in that respect reference was made to an opinion of the Health Council contained in a report on bathing water which was attached for information.

On 8 February 1979 the Commission reminded the Netherlands Government that the period for the introduction of the provisions of national law needed for the implementation of Directive No 76/160 and for informing the Commission thereof had expired on 10 December 1977. Referring to the above-mentioned letter of 28 March 1978 and to the undertaking given therein by the Netherlands Government to the effect that it would inform the Commission as soon as the implementing measures in question had been adopted, the Commission pointed out that the failure

to give any information in that regard constituted a breach of the obligation imposed in Article 12 (1) of the directive. The memorandum of 8 February represented the first step in the procedure under Article 169 of the EEC Treaty and therefore granted the State to which it was addressed a period of two months in which to submit its observations.

On 23 May 1979, the Permanent Representation of the Kingdom of the Netherlands to the European Communities gave a reply to the Commission which began with the assurance that the Netherlands legislation in force on the quality of surface water provided for "a number of methods" of controlling the quality of such water, and that at the same time the prospective multiennial programme for the campaign against water pollution for the period 1975 to 1979 included in the annexes thereto the provisions of Directive No 76/160. Although the draft law for amendment of the legislation relating to the pollution of surface water was still under discussion in Parliament, it was stated in the letter that even before such amendment there existed "administrative provisions enabling the directive to be implemented to a considerable extent". Moreover, the law relating to hygiene and safety in bathing establishments had been amended, in the light of the directive of 8 December 1975, and that law, too, enabled measures to be adopted regarding the quality of bathing water. (The letter went on to say that the amendment in question was still at the draft stage, and would, it was envisaged, be laid before Parliament during 1979). Having referred to the obligation of mayors to order the closure of bathing establishments in the event of any danger of the propogation of infectious diseases, the letter stated that the measures to be taken for implementation of the directive would be harmonized with each other on the basis both of the law relating to the pollution of surface water and of the law relating to hygiene and safety in bathing establishments. In view of the matters referred to in the letter, the Netherlands Permanent Representative submitted that, by means of the legislation in force, the Netherlands Government was in practice already implementing the directive in question.

The Commission did not share that view and on 23 July 1979 issued a reasoned opinion within the meaning of Article 169 of the EEC Treaty to the effect that the Kingdom of the Netherlands had failed to fulfil an obligation imposed on it by Directive No 76/160 by not adopting the laws, regulations and administrative provisions needed to implement it. The Commission referred to its earlier letter of 8 February 1979 and to the observations of the Netherlands Permanent Representation of 23 May 1979 and stated that neither the law to combat infectious diseases and to detect the causes of disease (mentioned in those observations) nor the report on bathing areas constituted measures to ensure compliance with the directive within the meaning of Article 12 thereof, whilst on the other hand the legislative measures planned at an earlier stage by the Netherlands authorities in order to implement the directive — namely amendment of the law relating to the pollution of surface water and the law relating to hygiene and safety in bathing establishments — were still at the draft stage.

On 26 November 1979, the Netherlands Permanent Representation wrote again to the Commission reaffirming its view that the law relating to the pollution of surface water already provided "certain mechanisms making it possible to pursue a policy aimed at meeting or continuing to observe the quality requirements which surface water intended for a specific purpose (in this case, for bathing) must satisfy". The hierarchical structure of the relations between the various central and decentralized authorities responsible for the quality of water and the procedures for concerted action on the part of those authorities would contribute to development of the policy pursued in order to improve the quality of surface water. The letter acknowledged that, in order to ensure the implementation of Directives Nos 76/160 and 76/464, it was necessary "to create a legal instrument by which general and binding instructions might be issued to all the authorities responsible for the quality of water" and that "an instrument of that kind does not exist at the present time in the law relating to the pollution of surface water" and therefore "it is necessary to adapt that law for the purpose of implementing the directive". That did not however mean, according to the Netherlands Government, that implementation of the directive in the Netherlands was not possible without such adaptation, for the determination of parameters, as defined in the directives, was also provided for in the prospective multiennial programme, which had the status of a recommendation to local authorities which "in fact draw up their policy ... on the basis of that programme".

Furthermore, the amendment to the law on hygiene and safety in bathing establishments, which had not yet been effected, did not prevent the adoption of provincial and municipal orders prohibiting bathing in surface waters which did not satisfy the quality requirements laid down in the Community directive.

In conclusion, the Netherlands Permanent Representation, having repeated the undertaking to expedite as far as possible the procedure for adoption of the legislative amendments announced some considerable time earlier, concluded that, even if such measures were not adopted, Directive No 76/160 should be considered as having been implemented by means of the existing laws, through administrative channels, and by use of the available mechanisms for the orientation of policy.

By letter of 24 March 1981, the Netherlands Permanent Representation finally informed the Commission of the stage reached in the procedure for amendment of the law relating to the pollution of surface water and the law relating to safety in bathing establishments. Although work was progressing, it had not yet been possible to complete the draft laws in question.

In view of the continuing delay in the adoption of the measures considered necessary for implementation of the directive, the Commission lodged the application against the Kingdom of the Netherlands on 24 April 1981 which gave rise to Case 96/81.

4. In parallel with and almost at the same time as the exchange of letters which preceded the institution of the above-mentioned proceedings, contacts of the same kind took place between the Commission and the Kingdom of the Netherlands in relation to the implementation of Directive No 75/442

The arguments put forward and the action taken on both sides in this second case are similar to those in the first case.

In its reply of 12 October 1977 to a request for information from the Commission, the relevant Netherlands authority stated that, in view of the decentralized system of control of surface water in force in the Netherlands, central government did not have the power directly to impose rules on the activity of the local authorities in connection with the issue of authorizations or the determination of quality requirements for surface waters which were under their jurisdiction. In order to avoid that problem, the Netherlands Government was preparing a draft law intended to amend the provisions in force relating to the pollution of surface water. The amendment would, in particular, make it possible to maintain throughout the territory of the State the minimum quality required for the various functions of surface water, so that even water which was not under the State's jurisdiction might satisfy the conditions laid down in the directive. Moreover, the Netherlands authority recognized the need to adopt rules to prohibit the use of surface water not conforming to the provisions of the directive for the abstraction of drinking water. Those rules should be introduced by an amendment to the law relating to the distribution of water and by the order implementing that law.

Reference was made at the end of the same letter to a report, which was attached, on the quality of surface water intended for drinking purposes. After noting that the report disclosed a number of divergences between the situation existing in the Netherlands and the requirements of the directive of 16 June 1975, the letter concluded that since the programme was still incomplete no final conclusions could be drawn from the results of that comparative inquiry to establish whether or not the quality of the surface water corresponded to that laid down in the directive.

By letter of 9 January 1979 the Commission stated that the Netherlands had failed to comply with the directive and announced its intention to issue a reasoned opinion pursuant to Article 169 of the Treaty; accordingly, it invited the Netherlands Government to submit its observations within two months. In its reply of 19 April 1979, the Netherlands Permanent Representation to the Communities adhered to the view that Directive No 75/440 was "in practice" being applied in the Netherlands on the basis of the legislation in force; such legislation already "provided certain means" for that purpose and in addition the implementation of the directive would be ensured "to a considerable extent" by administrative procedures. The letter dwelt upon a number of aspects of the law relating to the pollution of surface water and also mentioned the prospective multiennial programme for 1975 to 1979 (as a means of shaping the policy followed by those responsible for water quality) and stated that the provisions of the directive in question were included in the annexes to that programme. Moreover, extension of the water-measuring programme for surface water to all catchment points had also been "virtually completed".

On 23 July 1979 the Commission, in a reasoned opinion, stated that the Kingdom of the Netherlands had failed to adopt the laws, regulations and administrative provisions needed to comply with Directive No 75/440. Reference was made in the opinion to the multiennial programme for 1975 to 1979 and to the proposed amendment of the law relating to the pollution of surface water. The Commission rejected the view that the former constituted a measure incorporating the directive into domestic law and noted that the latter had not yet entered into force.

The Netherlands Government's view was reiterated in its letter of 30 November 1979. It is particularly interesting to note at this stage that, whilst that letter insists that the existing rules are sufficient for the implementation of Directive No 75/440 — emphasizing *inter alia* the fact that the policy of local authorities with regard to water is drawn up on the basis of the multiennial programme — the Netherlands Government on the other hand recognizes that "in order to ensure implementation of the directives" (Nos 75/440 and 76/464) "it was necessary to create a legal instrument by which general and binding instructions might be issued to all the authorities responsible for the quality of water". The need to amend the law relating to the pollution of surface water is associated with the absence of such an instrument in the law as it now stands.

Finally, on 24 March 1981 the Netherlands Government informed the Commission as to the stage reached in the legislative procedure for the introduction of the aforementioned amendment. In view of the slowness of that procedure, the Commission lodged the application with which we are now concerned on 23 April 1981.

5. A matter discussed at length in the course of Cases 96 and 97/81 was the proof of failure on the part of a Member State brought before the Court by the Commission pursuant to Article 169 of the EEC Treaty to fulfil its obligations under the Treaty. On the one hand, the applicant accused the Netherlands Government of failing to fulfil the obligation of providing information imposed by both directives and expressed its conviction that such failure might even suffice to justify the presumption of a total or partial failure to comply with the other obligations laid down in the directives, without the need for a detailed comparison between the Netherlands provisions as now in force and the content of those directives. On the other hand, the defendant government maintained that it provided the Commission with a considerable amount of information and denied that it might be inferred from any gaps in the information that the directives had not been implemented; and in its turn it accused the Commission of failing to demonstrate that the Netherlands had failed to fulfil the obligations laid down in the directives in question.

As a general principle, it is to be emphasized that the Commission can only properly discharge the duty of supervision entrusted to it if the Member States faithfully and fully comply with their obligation, laid down in directives, to provide information. In other words, every State must take all possible steps to inform the Commission, with the maximum clarity and with all relevant details, of the extent to which their own

legislation conforms to the obligations imposed by directives. The Commission may not be regarded as under any obligation to seek out, on its own initiative, the national implementing measures. From that point of view, a total lack of information from a Member State may be sufficient to raise the presumption that its legal system has not been brought into line with a directive. But where a number of communications have been submitted, it is for the Commission to assess them freely (subject to review by the Court at a later stage); it is then inappropriate to speak of "presumptions". The Commission will then consider the information provided by the State concerned in order to determine whether or not a particular directive has been fully implemented and it is self-evident that the analysis of the measures of which notice is given by the State in question will have to be more or less rigorous depending on how closely they appear, *prima facie*, to meet the aim of conformity with the directive.

In the present case there is room for doubt whether the answers given by the Netherlands authorities to the requests from the Commission satisfy the requirements of effective supervision in a rather complex area such as that of protection of the quality of water in the Netherlands, which is ensured by means of a very considerable number of measures adopted by local authorities. No notice of any measure of that kind was given to the Commission, whilst in the case of a number of the documents provided (prospective programme and reports regarding the condition of water) the information regarding their relevance to implementation of the provisions of the directives was expressed in vague terms. The defendant government did not on any occasion provide the "detailed picture" of the relevant domestic legislation which the Commission requested from it three months after adoption of the directives.

But the point to be emphasized is that the Commission did not base its views on that conduct when it stated that the directives in question were to be regarded as not having been implemented. In effect, the reasoned opinions refer to those measures which the Netherlands Government put forward as being sufficient to implement the directives and express the view that they are inadequate. At the same time they note that the draft laws to which the Netherlands Government referred repeatedly in connection with the information submitted previously are still at the draft stage a considerable time after the expiry of the periods prescribed by the directives. That does not seem to me to be reasoning based on the presumption that, in view of the incomplete information provided, the Netherlands Government was to be regarded as having wholly failed to implement the provisions of the directives. On the contrary, the charge levelled against the Netherlands Government by the Commission is based on a specific assessment of the measures of which the Commission has been informed.

6. In my opinion, the correspondence between the Commission and the Netherlands Government, before and after the two reasoned opinions, clearly demonstrates three things: (a) the Netherlands water policy — with regard both to surface water and to water for bathing purposes — has been, since before the directives were adopted, and continues to be substantially in harmony with the aims of the directives; but the existing legislation does not make it possible to comply promptly and

precisely with the obligations imposed by the Community; (b) in particular, the division of powers between the central and local authorities precludes any certainty that the measures taken by local authorities will conform to the directives even though endeavours may be made, by the adoption of programmes, to induce the local authorities to fall into line with the directives; (c) precisely in order to enable it fully to comply with its Community obligations, the Netherlands Government submitted legislative amendments which the Parliament did not approve in good time, that is to say before expiry of the periods laid down in the directives.

Of course, the freedom of Member States regarding the choice of the forms and methods used to achieve the intended results of directives (Article 189) remains unaltered. In particular, it should be noted that the Commission expressed no reservation reagarding the decentralized system of control and supervision of water applied in the Netherlands. But it should not be forgotten that in the case of directives which, like the ones in question here, are based on Article 100 of the EEC Treaty, the desired result is the approximation of the laws, regulations and administrative provisions of the Member States. It is therefore necessary for the mechanisms by means of which the national authorities, whether central or local, give effect to the directives to be such as to provide a legal guarantee that they will be complied with. What is required therefore is that the State, either directly or through the local authorities, should adopt national legislation incorporating the mandatory content of the provisions of each directive, so that the latter apply uniformly throughout the national territory, unless of course the existing national laws are already perfectly in harmony with the provisions of the directive.

The situation in the Netherlands, as regards implementation of Directives Nos 76/160 and 75/440, does not satisfy the requirements set out above. Pending the incorporation into national law, by act of the Netherlands legislature, of the rules laid down in those directives (particularly regarding the maximum values of the various microbiological, physical and chemical components of water and the criteria and methods for investigation and sampling), the Netherlands rules consist to a considerable extent of measures adopted independently by local authorities empowered to take action in their respective areas regarding supervision and control of water intended for bathing purposes or for the abstraction of drinking water. From the point of view of Community law, however, a system of that kind displays two fundamental defects. In the first place, reliance upon local initiatives not subject to a State law offers no guarantee that the various authorities concerned will bring their rules into line with the Community provisions within the time-limits laid down in the directives. In the second place, where the mandatory content of the directive has not been converted into rules of national law, there is not even any guarantee that the central authorities, in those cases where they do exercise control over the measures taken by the local authorities, will fully comply with the obligations imposed by those directives.

The Netherlands Government has affirmed that the directives in question are in themselves binding not only on the State but also on the central and local

administrative authorities with responsibility for water, whilst rejecting the view that such binding force is attributable to the mechanism of the direct effect of Community provisions. But that view is in contradiction with the fact, acknowledged by the Netherlands Government itself in its above-mentioned letters of 26 November 1979 (Case 96/81) and 30 November 1979 (Case 97/81), namely that in order to ensure implementation of Directives Nos 76/160 and 75/440 there must be a legal instrument under national law — at the moment not in existence — by which general and binding instructions might be issued to all the authorities responsible for the quality of water.

7. The framework of the legal aspects relevant to this case is completed by two decisions taken by the Netherlands Government before the commencement of the actions in Cases 96 and 97/81.

As regards Directive No 76/160 it is appropriate to bear in mind the explanatory statement accompanying the above-mentioned government proposal to amend the law on hygiene and safety in bathing establishments. It was stated, *inter alia*, that: "implementation of the directive requires provisions to be adopted in the following areas: (a) ascertainment of the desired quality of bathing water by determination of values for the parameters indicated in the annex to the directive: (b) adoption of the provisions required to ensure that bathing water meets the prescribed quality requirements; (c) sampling and analysis of samples in accordance with the methods and frequencies specified in the annex to the directive". It is hard to reconcile that statement with the view put forward by the Netherlands during the proceedings that new legislation was not essential.

As regards the implementation of Directive No 75/440, the need to amend the legislation in force to ensure that water intended for the abstraction of drinking water meets the quality requirements laid down in the directive, and to ensure observance of the prohibition of the use for that purpose of surface water not conforming to those criteria, was recognized in the explanatory statement accompanying the draft amendment of the Netherlands law relating to the distribution of water. It is no surprise therefore that, in its first reaction to the requests for information submitted by the Commission regarding measures implementing the two directives, the Netherlands Government explicitly acknowledged the need to amend the law relating to hygiene and safety in bathing establishments and the law relating to the distribution of water (see the above-mentioned letters of 28 March 1978 and 12 October 1977).

8. Finally, the clarifications given by the Commission in its written replies of 7 January to the questions put to it by the Court reinforce the view that the law of the Netherlands has not been brought into line with the two directives in question within the prescribed period.

As regards Directive No 76/160, the applicant examined in particular the obligation imposed in Articles 2 and 3 to establish for all bathing areas values corresponding to the physical, chemical and microbiological parameters indicated in the annex. It noted that those parameters had to a considerable extent been adopted in the prospective mul-

tiennial programme for 1980 to 1984 prepared by the Netherlands Minister for Transport, Water Control and Construction but that that programme was not legally binding on the local authorities with responsibility for bathing water or on the central administration itself. It states in fact that the criteria laid down in the directive are adopted merely by way of information and that "it is not possible to say at the present time what the Netherlands standards to be established in that respect will be". It is clear that a document so worded offers no guarantee that the principles laid down in Directive No 76/160 will be observed.

In that regard it should also be noted that, whilst pursuant to Article 4 the States have at their disposal ten years from notification of the directive to ensure that the quality of bathing water conforms to the limit values set in accordance with Article 3, the adoption of the measures necessary to achieve that objective and therefore, *a fortiori*, the determination of those values was to take place within two years. It is clear that a mere indication contained in an instrument which is not binding is not sufficient to fulfil the obligation of legislative harmonization imposed in those articles.

The Commission also observed, without being contradicted, that the rules adopted by the Netherlands legislation in force before adoption of the directive in several cases (specifically with regard to parameters Nos 6, 8, 9 and 10 of the annex) adopt less stringent values than those set at Community level.

With reference to Article 6 of the directive, relating to checks, it was disclosed in a reply in the oral proceedings by the Agent of the Netherlands Government that the national legislation necessary to specify and render obligatory for the various authorities with responsibility in that area the prescribed criteria for and methods of sampling has not yet been enacted. That national legislation was still at the draft stage.

As regards the implementation of Directive No 75/440, it appears from the above-mentioned Commission document that the Netherlands has only framework legislation, which is moreover incomplete, and prospective programmes which merely determine policy. In particular it appears that even by the end of 1981 the Netherlands authorities had not yet set the values required for the implementation of Article 4 of that directive. Also lacking are any provisions implementing Article 4 (3) which prohibits the use of water whose characteristics fall short of the mandatory limit values for the abstraction of drinking water and the provisions necessary for implementation of the rules for checks laid down in Article 5.

According to the information provided by the Commission in the course of the oral proceedings, which was not refuted by the defendant, the latter's failure to fulfil its obligations has not been remedied with regard to any of the above matters despite the entry into force on 1 January 1982 of the law relating to the pollution of surface water. In fact, that law confines itself to defining the framework for subsequent legislation to be adopted by the Netherlands central and local authorities, transferring powers on the basis of the enactment (which has not yet taken place) of the necessary legislative measures for implementation of the directive. In any case, that law, having been adopted after the commencement

of these proceedings, is necessarily irrelevant to the well-foundedness of the application, which is determined with reference to the date on which it was lodged.

9. There remains to be examined the question forming the subject-matter of Case 100/81 in which — as I stated at the outset — the Commission charges the Netherlands with having failed to implement Directive No 74/561 of the Council of 12 November 1974 on admission to the occupation of road-haulage operator in national and international transport operations.

The defendant government in this case merely maintains that the obligations deriving from that directive have been fulfilled in part in the Netherlands, since Netherlands legislation has for a considerable time imposed the requirements laid down at Community level regarding the vocational skill and financial standing of the owners of transport undertakings. On the other hand, as regards the requirement that road-haulage operators should be of good repute (Article 3 (1) (a)), the government recognizes that implementation of the directive requires amendments, which have not yet been made, to the legislation now in force. It states that the delay in adopting the necessary measures is attributable to the fact that amendments had to be made, in consequence of the judgment given in Joined Cases 145 and 146/78 *(Augustijn* and *Wattenberg),* to the draft law which had already been laid before Parliament in order to ensure compliance with all the obligations imposed by that directive.

The Commission considers the fact that the defendant State has thus admitted that it has not fully implemented the directive in question to be sufficient proof that the application is well-founded. It therefore considered that it was not necessary to put forward any arguments regarding those areas in which the Netherlands Government regards itself as having fulfilled its obligations.

In fact, I consider that it would be superfluous to examine to what degree the Netherlands legislation already conforms to the directive in order to define exactly the extent of the infringement on the part of the defendant State. In order for the Commission's action to succeed, it is only necessary to find that that State did not adopt within the prescribed period (that is to say before 1 January 1977) the measures necessary fully to implement the directives. It is hardly necessary to mention in that respect that, according to a consistent line of decisions of this Court difficulties encountered in the course of the domestic legislative process do not justify a Member State's delay in complying with the obligations laid down in a directive.

10. I therefore conclude by proposing that the three applications by the Commission against the Kingdom of the Netherlands be upheld and that the defendant State be ordered to pay the costs.