

Case C-422/92

Commission of the European Communities

v

Federal Republic of Germany

(Failure by a Member State to fulfil its obligations —  
Transposition of the directives on waste, toxic and dangerous waste  
and the transfrontier shipment of hazardous waste)

Opinion of Advocate General Jacobs delivered on 16 March 1995 .....	I - 1100
Judgment of the Court, 10 May 1995 .....	I - 1124

Summary of the Judgment

- 1. Actions against Member States for failure to fulfil obligations — Commission's right to bring an action — Exercise of that right not dependent on a specific interest in bringing an action (EEC Treaty, Art. 169)*
- 2. Actions against Member States for failure to fulfil obligations — Commission's right to bring an action — Time-limit for exercising that right — None — Discretion as to the time at which proceedings are brought (EEC Treaty, Art. 169)*

3. *Approximation of laws — Waste — Directives 75/442 and 78/319 — Definition — Exclusion of certain recyclable materials — Not permissible*  
(Council Directives 75/442, Art. 1, and 78/319, Art. 1)
4. *Approximation of laws — Waste — Transfrontier shipment of hazardous waste — Directive 84/631 — General and absolute prohibition on the export of waste — Not permissible — National legislation requiring the disposal of waste within national territory but not excluding, subject to authorization, transfrontier shipments — Permissible*  
(EEC Treaty, Art. 130r(2); Council Directive 84/631, as amended by Directive 86/279)

1. It is not necessary for the Commission to have a specific interest in bringing an action in order to commence proceedings under Article 169 of the Treaty. Article 169 is not intended to protect the Commission's own rights but provides one of the means by which the Commission ensures that the Member States give effect to the provisions of the Treaty and the provisions adopted under the Treaty by the institutions.

2. The Commission is not obliged to act within a specified period in order to bring an action against a Member State under Article 169 of the Treaty for failure to fulfil its obligations under the Treaty. It is thus entitled to decide, in its discretion, on what date it may be appropriate to bring an action and it is not for the Court to review the exercise of that discretion.

3. The concept of waste within the meaning of Article 1 of Directives 75/442 and 78/319 is not to be understood as exclud-

ing substances and objects which are capable of economic reutilization, and therefore a Member State which excludes certain categories of recyclable waste from the scope of its legislation has not properly implemented those directives.

4. Directive 84/631 on the supervision and control within the European Community of the transfrontier shipment of hazardous waste, as amended by Directive 86/279, introduced a complete system covering, in particular, transfrontier shipments of dangerous waste with a view to their disposal at establishments conforming to specific requirements and is based on the obligation of the holder of the waste to make a detailed notification in advance. Under that system, the relevant national authorities are entitled to raise objections and are therefore able to prohibit a particular shipment of dangerous waste in order to deal with the problems concerning, first, protection of the environment and of health and, secondly, public policy and security, but they are

not entitled to impose a general prohibition on such shipments.

bition on the export of dangerous waste, which would be contrary to Directive 84/631.

National legislation requiring disposal on national territory, but containing implementing conditions allowing transfrontier shipments of hazardous waste in specific circumstances and laying down for that purpose administrative procedures corresponding to those provided for in the directive, is not incompatible with that directive. Such a rule, reflecting pursuit of an objective conforming with the principle that environmental damage should as a priority be rectified at source, laid down in Article 130r(2) of the Treaty, cannot be regarded as a general and absolute prohi-

National provisions which make the shipments in question subject to an authorization are likewise not incompatible with the directive provided that such authorization corresponds to an 'acknowledgement of receipt' as defined in the directive and where the grounds for withholding authorization are essentially linked with the public interest in protection of human health and of the environment, thus specifically taking account of the concerns expressed in the directive.