

JUDGMENT OF THE COURT (Fifth Chamber)

26 September 2000 *

In Case C-408/99,

Commission of the European Communities, represented by M. Wolfcarius, Legal Adviser, acting as Agent, with an address for service in Luxembourg at the office of C. Gómez de la Cruz, of its Legal Service, Wagner Centre, Kirchberg,

applicant,

v

Ireland, represented by M.A. Buckley, Chief State Solicitor, acting as Agent, with an address for service in Luxembourg at the Irish Embassy, 28 Route d'Arlon,

defendant,

APPLICATION for a declaration that by failing to adopt the laws, regulations or administrative provisions necessary to comply with Council Directive 94/55/EC of 21 November 1994 on the approximation of the laws of the Member States with regard to the transport of dangerous goods by road (OJ 1994 L 319, p. 7)

* Language of the case: English.

and Commission Directive 96/86/EC of 13 December 1996 adapting to technical progress Directive 94/55 (OJ 1996 L 335, p. 43), or in any event by failing to inform the Commission of those measures, Ireland has failed to fulfil its obligations under those Directives,

THE COURT (Fifth Chamber),

composed of: D.A.O. Edward, President of the Chamber, L. Sevón, P.J.G. Kapteyn, H. Ragnemalm (Rapporteur) and M. Wathelet, Judges,

Advocate General: A. Saggio,

Registrar: R. Grass,

having regard to the report of the Judge-Rapporteur,

after hearing the Opinion of the Advocate General at the sitting on 25 May 2000,

gives the following

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Judgment

- 1 By application lodged at the Registry of the Court on 25 October 1999, the Commission of the European Communities brought an action under Article 226 EC for a declaration that by failing to adopt the laws, regulations or administrative provisions necessary to comply with Council Directive 94/55/EC of 21 November 1994 on the approximation of the laws of the Member States with regard to the transport of dangerous goods by road (OJ 1994 L 319, p. 7) and Commission Directive 96/86/EC of 13 December 1996 adapting to technical progress Directive 94/55 (OJ 1996 L 335, p. 43), or in any event by failing to inform the Commission of those measures, Ireland has failed to fulfil its obligations under those Directives.

- 2 Pursuant to Article 10 of Directive 94/55 and Article 2 of Directive 96/86, the Member States were required to bring into force the laws, regulations and administrative provisions necessary to comply with those directives before 1 January 1997 and immediately to inform the Commission thereof.

- 3 Since on expiry of the deadline set by Directives 94/55 and 96/86 the Commission had received no word concerning the transposition of those measures into Irish law, it gave the Irish Government formal notice by letter of 31 March 1998 to submit its observations within two months.

- 4 By letter of 26 May 1998, the Irish authorities informed the Commission that effect would be given to Directive 94/55, as amended by Directive 96/86, by regulations which would be implemented under legislation in course of preparation, as soon as this was adopted by the Parliament.

- 5 On 16 October 1998 the Commission delivered a reasoned opinion calling upon Ireland to take the measures necessary to comply with its obligations

under Directives 94/55 and 96/86 within two months of notification of that opinion.

- 6 By letter of 24 November 1998, the Irish authorities informed the Commission that the regulations would be implemented as soon as possible after their enactment.
- 7 When no information was forthcoming to the effect that the legislative process had run its course and that the legislation referred to had been adopted, the Commission brought the present proceedings.
- 8 The Commission maintains that Ireland, in breach of its obligations under the Treaty, has failed to transpose Directives 94/55 and 96/86 into national law within the period prescribed.
- 9 Ireland does not contest its failure to fulfil obligations, but points out that the preliminary draft of the regulations necessary to implement the Directives is being prepared by an inter-departmental working group.
- 10 Consequently, since the transposition of the Directives at issue into Irish law has not been completed within the period prescribed, the action brought by the Commission must be regarded as well founded.

- 11 It must therefore be held that by not adopting within the period prescribed the laws, regulations or administrative provisions necessary to comply with Directives 94/55 and 96/86, Ireland has failed to fulfil its obligations under those directives.

Costs

- 12 Under Article 69(2) of the Rules of Procedure, the unsuccessful party is to be ordered to pay the costs if they have been applied for in the successful party's pleadings. Since the Commission has applied for costs and Ireland has been unsuccessful, the latter must be ordered to pay the costs.

On those grounds,

THE COURT (Fifth Chamber)

hereby:

1. Declares that, by failing to adopt within the period prescribed the laws, regulations or administrative provisions necessary to comply with Council

Directive 94/55/EC of 21 November 1994 on the approximation of the laws of the Member States with regard to the transport of dangerous goods by road and Commission Directive 96/86/EC of 13 December 1996 adapting to technical progress Directive 94/55, Ireland has failed to fulfil its obligations under those directives;

2. Orders Ireland to pay the costs.

Edward

Sevón

Kapteyn

Ragnemalm

Wathelet

Delivered in open court in Luxembourg on 26 September 2000.

R. Grass

D.A.O. Edward

Registrar

President of the Fifth Chamber