OPINION OF ADVOCATE GENERAL STIX-HACKL

delivered on 10 January 2002 [1]

1. By its application lodged at the Court of Justice on 29 January 2001 pursuant to Article 226 EC the Commission seeks a declaration that by failing to adopt the laws, regulations or administrative provisions necessary to comply with Council Directive 96/61/EC of 24 September 1996 concerning integrated pollution prevention and control [2] or, in any event by failing to inform the Commission thereof, the United Kingdom has failed to fulfil its obligations under that directive. The Commission also seeks an order for costs against the United Kingdom.

2. It is settled case-law of the Court of Justice that, in an action under Article 226 EC, the question whether a Member State has failed to fulfil its obligations must be determined by reference to the situation prevailing in the Member State at the end of the period laid down in the reasoned opinion. [3]

3. As is clear from the pleadings, when the period of two months prescribed in the reasoned opinion of the Commission delivered on 3 August 2000 came to an end, the United Kingdom had not taken all the necessary measures, in particular in relation to off-shore installations, in order to comply with Directive 96/61.

4. The United Kingdom Government does not dispute that it did not adopt the necessary laws, regulations or administrative provisions to implement Directive 96/61 within the prescribed period.

5. The obligation in Community law to implement the directive derives both directly from the directive and from the third paragraph of Article 249 EC and Article 10 EC.

6. As it is thus established that the United Kingdom has not fulfilled its obligations in Community law, the application of the Commission should be granted and this Member State should be declared to have failed to fulfil its obligations under the Treaty and ordered to pay the costs.

1 — Original language: German.

2 — OJ 1996 L 257, p. 26.

3 — Case C-315/98 *Commission* v *Italy* [1999] ECR I-8001, paragraph 11.

Conclusion

7. It is therefore proposed that the Court of Justice should rule as follows:

(1) By failing to adopt within the prescribed period the laws, regulations or administrative provisions necessary to comply with Council Directive 96/61/EC of 24 September 1996 concerning integrated pollution prevention and control the United Kingdom of Great Britain and Northern Ireland has failed to fulfil its obligations under that directive.

(2) The United Kingdom of Great Britain and Northern Ireland shall bear the costs.