

Judgment of the Court (First Chamber) of 27 October 1998

Commission of the European Communities v Ireland

Failure to fulfil obligations - Failure to transpose Directive 93/103/EC

Case C-364/97

European Court reports 1998 Page I-06593

In Case C-364/97,

Commission of the European Communities, represented by Pieter Jan Kuijper, Legal Adviser, acting as Agent, with an address for service in Luxembourg at the office of Carlos Gómez de la Cruz, of its Legal Service, Wagner Centre, Kirchberg,

applicant,

v

Ireland, represented by Michael 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 not adopting and/or by not communicating to the Commission the laws, regulations and administrative provisions necessary to comply with Council Directive 93/103/EC of 23 November 1993 concerning the minimum safety and health requirements for work on board fishing vessels (thirteenth individual directive within the meaning of Article 16(1) of Directive 89/391/EEC) (OJ 1993 L 307, p. 1), Ireland has failed to fulfil its obligations under the EC Treaty,

THE COURT

(First Chamber),

composed of: P. Jann (Rapporteur), President of the Chamber, L. Sevón and M. Wathelet, Judges,

Advocate General: A. La Pergola,

Registrar: R. Grass,

having regard to the Report of the Judge-Rapporteur,

after hearing the Opinion of the Advocate General at the sitting on 17 September 1998,

gives the following

Judgment

Grounds

1 By application lodged at the Court Registry on 22 October 1997, the Commission of the European Communities brought an action under Article 169 of the EC Treaty for a declaration that, by not adopting and/or by not communicating to the Commission the laws, regulations and administrative provisions necessary to comply with Council Directive 93/103/EC of 23 November 1993 concerning the minimum safety and health requirements for work on board fishing vessels (thirteenth individual directive within the meaning of Article 16(1) of Directive 89/391/EEC) (OJ 1993 L 307, p. 1; hereinafter 'the Directive'), Ireland has failed to fulfil its obligations under the EC Treaty.

2 Under Article 13(1) of the Directive, the Member States were required to bring into force the laws, regulations and administrative provisions necessary to comply with the Directive by 23 November 1995 at the latest.

3 Since the Commission was not notified of any legislation intended to transpose the Directive into Irish law and had no information enabling it to conclude that Ireland had complied with that obligation, it initiated against that State the infringement procedure provided for by Article 169 of the Treaty by sending it a letter of formal notice on 27 February 1996.

4 Receiving no reply, the Commission sent Ireland a reasoned opinion by letter of 23 December 1996, calling upon it to adopt the measures necessary to comply with the Directive within two months from the date of its notification.

5 When no official response to that opinion was forthcoming, the Commission brought the present proceedings.

6 In its defence, the Irish Government does not deny the infringement, but states that draft ministerial orders transposing the Directive into national law are in the process of being adopted. It also requests the Court to stay the proceedings for a period of three months.

7 In its reply, the Commission maintains its pleadings, but submits no observations regarding the Irish Government's request.

8 It is settled law that the question whether a Member State has failed to fulfil its obligations must be determined by reference to the situation in the Member State as it stood at the end of the period laid down in the reasoned opinion, and that the Court cannot take account of any subsequent changes (see, *inter alia*, Case C-361/95 *Commission v Spain* [1997] ECR I-7351, paragraph 13).

9 Since the Directive was not transposed into national law within the period prescribed, the Commission's application must be regarded as well founded.

10 It must therefore be held that, by failing to adopt within the period prescribed the laws, regulations and administrative provisions necessary to comply with the Directive, Ireland has failed to fulfil its obligations under Article 13(1) thereof.

Decision on costs

Costs

11 Under Article 69(2) of the Rules of Procedure, the unsuccessful party is to be ordered to pay the costs. Since Ireland has been unsuccessful in its pleadings, it must be ordered to pay the costs.

Operative part

On those grounds,

THE COURT

(First Chamber)

hereby:

1. Declares that, by failing to adopt within the period prescribed the laws, regulations and administrative provisions necessary to comply with Council Directive 93/103/EC of 23 November 1993 concerning the minimum safety and health requirements for work on board fishing vessels (thirteenth individual directive within the meaning of Article 16(1) of Directive 89/391/EEC), Ireland has failed to fulfil its obligations under Article 13(1) thereof;

2. Orders Ireland to pay the costs.