Judgment of the Court (First Chamber) of 5 July 2007 — Commission v Denmark

(Case C-327/05)

Failure of a Member State to fulfil obligations — Directive 85/374/EEC — Liability for defective products — Liability of the supplier for a defective product

Actions for failure to fulfil obligations — Examination of merits by the Court — Situation to be taken into consideration — Situation on expiry of the period laid down in the reasoned opinion (Art. 226 EC) (see para. 14)

Re:

Failure of a Member State to fulfil obligations — Incorrect transposition of Council Directive 85/374/EEC of 25 July 1985 on the approximation of the laws, regulations and administrative provisions of the Member States concerning liability for defective products (OJ 1985 L 210, p. 29) — National legislation under which the distributor of a defective product may incur liability in the same way as the manufacturer.

Operative part

1. By adopting and maintaining in force provisions which make intermediaries in the distribution chain liable under the same conditions as a manufacturer, contrary to Article 3(3) of Council Directive 85/374/EEC of 25 July 1985 on the approximation of the laws, regulations and administrative provisions of the Member States concerning liability for defective products, the Kingdom of Denmark has failed to fulfil its obligations under that directive.

2. The Kingdom of Denmark is ordered to pay the costs.