JUDGMENT OF THE COURT (Sixth Chamber)
29 May 1997 *

In Case C-357/96,

Commission of the European Communities, represented by Götz zur Hausen, 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

Kingdom of Belgium, represented by Jan Devadder, General Adviser to the Legal Service of the Ministry of Foreign Affairs, External Trade and Development Cooperation, with an address for service in Luxembourg at the Belgian Embassy, 4 Rue des Girondins,

defendant,

APPLICATION for a declaration that, by failing to adopt the laws, regulations and administrative measures necessary in order to comply with Commission Directive 94/15/EC of 15 April 1994 adapting to technical progress for the first time Council Directive 90/220/EEC on the deliberate release into the environment of genetically modified organisms, the Kingdom of Belgium has failed to fulfil its obligations under that directive,

* Language of the case: French.

THE COURT (Sixth Chamber),

composed of: G. F. Mancini, President of the Chamber, J. L. Murray, C. N. Kakouris, P. J. G. Kapteyn and H. Ragnemalm (Rapporteur), Judges,

Advocate General: D. Ruiz-Jarabo Colomer,
Registrar: R. Grass,

having regard to the report of the Judge-Rapporteur,

after hearing the Opinion of the Advocate General at the sitting on 20 March 1977,

gives the following

Judgment

1 By application lodged at the Court Registry on 30 October 1996, the Commission of the European Communities brought an action under Article 169 of the EC Treaty for a declaration that, by failing to adopt the laws, regulations and administrative measures necessary in order to comply with Commission Directive 94/15/EC of 15 April 1994 adapting to technical progress for the first time Council Directive 90/220/EEC on the deliberate release into the environment of genetically modified organisms (OJ 1994 L 103, p. 20), the Kingdom of Belgium has failed to fulfil its obligations under that directive.

2 It is clear from the first paragraph of Article 2 of Directive 94/15 that the Member States were to bring into force the laws, regulations and administrative provisions

necessary to comply with that directive by 30 June 1994 and forthwith to inform the Commission thereof.

3 Since it had received no notification of any measures to transpose Directive 94/15 into domestic law and there was no other information available to it to suggest that the Belgian Government had complied with its obligations, the Commission sent a letter of formal notice to that Government on 9 August 1994.

4 Since that letter achieved no effect, on 4 March 1996 the Commission sent a reasoned opinion to the Belgian Government requesting it to take the measures necessary to comply with its obligations under Directive 94/15 within two months from notification.

5 Since no measures implementing Directive 94/15 were notified to it within the prescribed period, the Commission brought the present action.

6 The Kingdom of Belgium does not deny the failure to fulfil obligations with which it is charged, but states that measures to remedy that failure will be adopted as soon as possible.

7 Since Directive 94/15 has not been transposed into domestic law within the period which it prescribes, the action brought by the Commission must be held to be well founded.

8 It must therefore be declared that, by failing to adopt the laws, regulations and administrative measures necessary in order to comply with Directive 94/15, the Kingdom of Belgium has failed to fulfil its obligations under the first subparagraph of Article 2 of that directive.

Costs

9 Under Article 69(2) of the Rules of Procedure, the unsuccessful party is to be ordered to pay the costs. Since the Kingdom of Belgium has been unsuccessful, it must be ordered to pay the costs.

On those grounds,

THE COURT (Sixth Chamber)

hereby:

1. **Declares that, by failing to adopt the laws, regulations and administrative measures necessary in order to comply with Commission Directive 94/15/EC of 15 April 1994 adapting to technical progress for the first time Council Directive 90/220/EEC on the deliberate release into the environment of genetically modified organisms, the Kingdom of Belgium has failed to fulfil its obligations under the first subparagraph of Article 2 of that directive;**

2. Orders the Kingdom of Belgium to pay the costs.

Mancini Murray Kakouris

Kapteyn Ragnemalm

Delivered in open court in Luxembourg on 29 May 1997.

R. Grass G. F. Mancini

Registrar President of the Sixth Chamber