JUDGMENT OF THE COURT (Fifth Chamber)
14 May 1998 *

In Case C-368/97,

Commission of the European Communities, represented by Berend Jan Drijber, of its Legal Service, 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 Annie Snoecx, Assistant Adviser in the Ministry of Foreign Affairs, External Trade and Development Cooperation, acting as Agent, 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 provisions necessary to comply with Council Directive 94/57/EC of 22 November 1994 on common rules and standards for ship inspection and survey organisations and for the relevant activities of maritime administrations (OJ 1994 L 319, p. 20), the Kingdom of Belgium has failed to fulfil its obligations under that directive and the EC Treaty,

* Language of the case: Dutch.

THE COURT (Fifth Chamber),

composed of: C. Gulmann (Rapporteur), President of the Chamber, M. Wathelet, J. C. Moitinho de Almeida, P. Jann and L. Sevón, Judges,

Advocate General: F. G. Jacobs,
Registrar: R. Grass,

having regard to the report of the Judge-Rapporteur,

after hearing the Opinion of the Advocate General at the sitting on 26 March 1998,

gives the following

Judgment

1 By application lodged at the Court Registry on 24 October 1997, 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 provisions necessary to comply with Council Directive 94/57/EC of 22 November 1994 on common rules and standards for ship inspection and survey organisations and for the relevant activities of maritime administrations (OJ 1994 L 319, p. 20, hereinafter 'the Directive'), the Kingdom of Belgium has failed to fulfil its obligations under the Directive and the EC Treaty.

2 Pursuant to Article 16(1) and (3) of the Directive, Member States were to bring into force the laws, regulations and administrative provisions necessary to comply with the Directive no later than 31 December 1995 and immediately to communicate to the Commission the text of all the provisions of domestic law adopted in the field of the Directive.

3 On the expiry of that period, since it had not received from the Kingdom of Belgium any communication or other information relating to the measures transposing the Directive into national law, the Commission gave formal notice to the Belgian Government by letter of 27 February 1996, requiring it to submit its observations within a period of two months, in accordance with Article 169 of the Treaty.

4 On 6 February 1996 the Kingdom of Belgium informed the Commission that it was preparing the measures necessary to comply with the Directive.

5 On 22 November 1996, since it had received no specific information concerning the adoption of such measures, the Commission sent a reasoned opinion to the Belgian Government requesting it to comply with its Community obligations within a period of two months of its notification.

6 By letter of 9 January 1997 the Belgian Government referred the Commission to an earlier letter dated 26 November 1996, in which it had sent a draft ministerial decree transposing the Directive to the Commission for an opinion. In a letter dated 18 March 1997 the Commission made a series of comments on that draft.

7 In the absence of any further communication from the Belgian authorities, the Commission decided to initiate the present proceedings.

8 In its defence, the Belgian Government does not dispute that the measures necessary to transpose the Directive were not adopted within the period prescribed; it explains, however, that the national procedure for consultation of the competent regional governments has been completed and that the ministerial decree concerning the approval of ship inspection and survey organisations and the authorisation granted to approved organisations will shortly be signed.

9 Since the transposition of the Directive has not been achieved within the period laid down therein, the action brought by the Commission must be held to be 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, the Kingdom of Belgium has failed to fulfil its obligations under Article 16(1) of that Directive.

Costs

11 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 the Kingdom of Belgium 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 and administrative provisions necessary to comply with Council Directive 94/57/EC of 22 November 1994 on common rules and standards for ship inspection and survey organisations and for the relevant activities**

of maritime administrations, the Kingdom of Belgium has failed to fulfil its obligations under Article 16(1) of that Directive;

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

Gulmann · Wathelet Moitinho de Almeida

Jann Sevón

Delivered in open court in Luxembourg on 14 May 1998.

R. Grass

Registrar

C. Gulmann

President of the Fifth Chamber