JUDGMENT OF THE COURT
16 May 1991 *

In Case C-167/90,

Commission of the European Communities, represented by Étienne Lasnet, Legal Adviser, acting as Agent, with an address for service in Luxembourg at the office of Guido Berardis, a member of the Commission's Legal Department, Wagner Centre, Kirchberg,

applicant,

v

Kingdom of Belgium, represented by Jan Devadder, Deputy Adviser to the Ministry of Foreign Affairs, Foreign 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 reserving the exercise of the activities of qualified pharmacists and of all pharmacists attached to hospital pharmacies or medical depositories to persons holding a diploma in hospital pharmacy, contrary to Article 1 of Council Directive 85/432/EEC of 16 September 1985 concerning the coordination of provisions laid down by law, regulation or administrative action in respect of certain activities in the field of pharmacy (Official Journal L 253, p. 34), and by failing to notify or to adopt before 1 October 1987, with the exception of the measures provided for in Articles 15 and 17, the measures necessary to comply with Council Directive 85/433/EEC of 16 September 1985 concerning the mutual recognition of diplomas, certificates and other evidence of formal qualifications in pharmacy, including measures to facilitate the effective exercise of the right of establishment relating to certain activities in the field of pharmacy (Official Journal L 253, p. 37), amended by Council Directive 85/584/EEC of 20 December 1985 (Official Journal L 372, p. 42) on account of the accession of Spain and Portugal, the Kingdom of Belgium has failed to fulfil its obligations under the EEC Treaty,

* Language of the case: French.

THE COURT,

composed of: O. Due, President, G. F. Mancini, T. F. O'Higgins and G. C. Rodríguez Iglesias (Presidents of Chambers), Sir Gordon Slynn, R. Joliet, F. A. Schockweiler, F. Grévisse and M. Zuleeg, Judges,

(The grounds of the judgment are not reproduced.)

hereby:

(1) (a) **Declares that, by reserving the exercise of the activities of qualified pharmacists and of pharmacists attached to hospital pharmacies or medical depositories to persons holding a diploma in hospital pharmacy awarded by a university recognized by the State, the Kingdom of Belgium has failed to fulfil its obligations under Article 1 of Council Directive 85/432/EEC of 16 September 1985 concerning the coordination of provisions laid down by law, regulation or administrative action in respect of certain activities in the field of pharmacy and under the EEC Treaty;**

(b) **Declares that, by failing to adopt within the prescribed period the provisions necessary to implement Council Directive 85/433/EEC of 16 September 1985 and Council Directive 85/584/EEC of 20 December 1985 concerning the mutual recognition of diplomas, certificates and other evidence of formal qualifications in pharmacy, including measures to facilitate the effective exercise of the right of establishment relating to certain activities in the field of pharmacy, the Kingdom of Belgium has failed to fulfil its obligations under the EEC Treaty;**

(2) **Orders the Kingdom of Belgium to pay the costs.**