JUDGMENT OF THE COURT (Sixth Chamber)
12 October 1995 *

In Case C-236/94,

Commission of the European Communities, represented by Hendrik van Lier, Legal Adviser, acting as Agent, with an address for service at the office of Carlos Gómez de la Cruz, of the Legal Service, Wagner Centre, Kirchberg,

applicant,

v

Kingdom of Belgium, represented by Jan Devadder, Director of Administration in the Ministry of Foreign Affairs, 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 not adopting and, in the alternative, by not communicating to the Commission within the prescribed period the laws, regulations and administrative provisions necessary to comply with Council Directive 91/339/EEC of 18 June 1991 amending for the eleventh time Directive 76/769/EEC on the approximation of the laws, regulations and administrative provisions of the Member States relating to restrictions on the marketing and use of certain dangerous substances and preparations (OJ 1991 L 186, p. 64), the Kingdom of Belgium has failed to fulfil its obligations under the EC Treaty,

* Language of the case: French.

THE COURT (Sixth Chamber),

composed of: C. N. Kakouris, President of the Chamber, G. Hirsch (Rapporteur), G. F. Mancini, F. A. Schockweiler and P. J. G. Kapteyn, Judges,

Advocate General: G. Tesauro,
Registrar: R. Grass,

having regard to the report of the Judge-Rapporteur,

after hearing the Opinion of the Advocate General at the sitting on 13 July 1995,

gives the following

Judgment

1 By application lodged at the Court Registry on 18 August 1994, the Commission of the European Communities brought an action under Article 169 of the EC Treaty for a declaration that, by not adopting and, in the alternative, by not communicating to the Commission within the prescribed period the laws, regulations and administrative provisions necessary to comply with Council Directive 91/339/EEC of 18 June 1991 amending for the eleventh time Directive 76/769/EEC on the approximation of the laws, regulations and administrative provisions of the Member States relating to restrictions on the marketing and use of certain dangerous substances and preparations (OJ 1991 L 186, p. 64; hereinafter 'the Directive'), the Kingdom of Belgium has failed to fulfil its obligations under the EC Treaty.

2 Under Article 2(1) of the Directive, Member States were to bring into force the provisions necessary to comply with that Directive no later than 18 June 1992 and forthwith to inform the Commission thereof.

3 The Kingdom of Belgium does not deny that it has failed to fulfil its obligations but points out that a Royal Decree intended to make good that failure is to be adopted shortly.

4 In those circumstances, it must be held that, since the Directive was not transposed within the period prescribed therein, the Commission's claim that the Kingdom of Belgium has failed to fulfil its obligations must be upheld.

5 Consequently, it must be held that, by not adopting within the prescribed period the laws, regulations and administrative provisions necessary to comply with Council Directive 91/339/EEC of 18 June 1991 amending for the eleventh time Directive 76/769/EEC on the approximation of the laws, regulations and administrative provisions of the Member States relating to restrictions on the marketing and use of certain dangerous substances and preparations, the Kingdom of Belgium has failed to fulfil its obligations under the EC Treaty.

Costs

6 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 not adopting within the prescribed period the laws, regulations and administrative provisions necessary to comply with Council Directive 91/339/EEC of 18 June 1991 amending for the eleventh time Directive 76/769/EEC on the approximation of the laws, regulations and administrative provisions of the Member States relating to restrictions on the marketing and use of certain dangerous substances and preparations, the Kingdom of Belgium has failed to fulfil its obligations under the EC Treaty;**

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

Kakouris Hirsch Mancini

Schockweiler Kapteyn

Delivered in open court in Luxembourg on 12 October 1995.

R. Grass C. N. Kakouris

Registrar President of the Sixth Chamber