JUDGMENT OF THE COURT (Sixth Chamber)
12 March 1998 *

In Case C-163/97,

Commission of the European Communities, represented by Hendrik van Lier, 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 at the Ministry of Foreign Affairs, External Trade and Cooperation with Developing Countries, 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 giving notification of or by not adopting the measures necessary in order to transpose Council Directive 92/74/EEC of 22 September 1992 widening the scope of Directive 81/851/EEC on the approximation of provisions laid down by law, regulation or administrative action relating to veterinary medicinal products and laying down additional provisions on homeopathic veterinary medicinal products (OJ 1992 L 297, p. 12), the

* Language of the case: French.

Kingdom of Belgium has failed to fulfil its obligations under the EC Treaty and that directive,

THE COURT (Sixth Chamber),

composed of: H. Ragnemalm, President of the Chamber, G. F. Mancini, P. J. G. Kapteyn, J. L. Murray (Rapporteur) and K. M. Ioannou, Judges,

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

having regard to the Report of the Judge-Rapporteur,

after hearing the Opinion of the Advocate General at the sitting on 15 January 1998,

gives the following

Judgment

1 By application lodged at the Court Registry on 30 April 1997, the Commission of the European Communities brought an action under Article 169 of the EC Treaty for a declaration that, by not giving notification of or by not adopting the measures necessary in order to transpose Council Directive 92/74/EEC of 22 September 1992 widening the scope of Directive 81/851/EEC on the approximation of provisions laid down by law, regulation or administrative action relating

to veterinary medicinal products and laying down additional provisions on homeopathic veterinary medicinal products (OJ 1992 L 297, p. 12; 'the Directive'), the Kingdom of Belgium has failed to fulfil its obligations under the Treaty and the Directive.

2 Under Article 10(1) of the Directive the Member States had to adopt the measures necessary to comply with the Directive by 31 December 1993 and to inform the Commission thereof forthwith.

3 Since the Commission had received no notification regarding the transposition of the Directive and, furthermore, had no information enabling it to ascertain whether the Kingdom of Belgium had in fact complied with its obligations, it sent the Belgian Government a letter of formal notice on 10 February 1994 in accordance with the procedure laid down in Article 169 of the Treaty, inviting the Belgian Government to submit its observations to it within two months.

4 The Kingdom of Belgium replied on 12 June 1995 that the measures needed in order to comply with the Directive were the subject-matter of a draft royal decree which had been submitted to the office of the Minister for Public Health.

5 Taking the view that the Kingdom of Belgium had failed to adopt, within the period laid down, the measures needed in order to comply with its obligations under the Directive, the Commission sent it a reasoned opinion on 22 May 1996, calling on it to adopt the measures needed in order to comply with the opinion within two months from notification thereof.

6 Since the Commission did not receive any information regarding the transposition of the Directive, it brought this action.

7 The Kingdom of Belgium does not deny that it has failed to fulfil its obligations. It states, however, that a draft royal decree intended to transpose the Directive has been submitted to the Conseil d'État (Council of State) for its opinion.

8 Since the Directive has not been transposed within the period laid down, the Commission's application must be held to be well founded.

9 It must therefore be held that, by not adopting within the prescribed period the laws, regulations and administrative provisions to comply with the Directive, the Kingdom of Belgium has failed to fulfil its obligations under Article 10(1) thereof.

Costs

10 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 to comply with Council Directive 92/74/EEC of 22 September 1992 widening the scope of Directive 81/851/EEC on the approximation of provisions laid down by law, regulation or administrative action relating to veterinary medicinal products and laying down additional provisions on homeopathic veterinary medicinal products, the Kingdom of Belgium has failed to fulfil its obligations under Article 10(1) thereof;**

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

Ragnemalm Mancini Kapteyn

Murray Ioannou

Delivered in open court in Luxembourg on 12 March 1998.

R. Grass H. Ragnemalm

Registrar President of the Sixth Chamber