JUDGMENT OF THE COURT
24 May 1988 *

In Case 307/86

Commission of the European Communities, represented by Jean Amphoux, Legal Adviser, acting as Agent, with an address for service in Luxembourg at the office of G. Kremlis, a member of the Commission's Legal Department, Jean Monnet Building, Kirchberg,

applicant,

v

Kingdom of Belgium, represented by the Minister for External Relations, and Jan Devadder, Assistant Counsellor at the Ministry of Foreign Affairs, Foreign Trade and Cooperation with Developing Countries, acting as its Agent, with an address for service in Luxembourg at its Embassy, Résidence Champagne, 4 rue de Girondins,

defendant,

APPLICATION for a declaration that, by failing to adopt within the prescribed period the laws, regulations or administrative provisions necessary to comply with Council Directive 82/714/EEC of 4 October 1982 laying down technical requirements for inland waterway vessels, the Kingdom of Belgium has failed to fulfil its obligations under the Treaty,

THE COURT

composed of: Lord Mackenzie Stuart, President, G. Bosco and G. C. Rodríguez Iglesias (Presidents of Chambers), T. Koopmans, U. Everling, Y. Galmot, C. Kakouris, R. Joliet and F. Schockweiler, Judges,

Advocate General: J. Mischo
Registrar: B. Pastor, Administrator

* Language of the Case: French.

having regard to the Report for the Hearing and further to the hearing on 17 March 1988,

after hearing the Opinion of the Advocate General delivered at the sitting on 17 March 1988,

gives the following

Judgment

1 By an application lodged at the Court Registry on 5 December 1986, the Commission of the European Communities brought an action under Article 169 of the EEC Treaty for a declaration that, by failing to adopt within the prescribed period the laws, regulations or administrative provisions necessary to comply with Council Directive 82/714/EEC of 4 October 1982 (Official Journal 1982, L 301, p. 1) laying down technical requirements for inland waterway vessels, the Kingdom of Belgium has failed to fulfil its obligations under the EEC Treaty.

2 The aim of Directive 82/714/EEC is to establish common rules regarding the technical requirements with which inland waterway vessels must comply. The adoption of these common rules had already been provided for in Council Directive 76/135/EEC of 20 January 1976 on reciprocal recognition of navigability licences for inland waterway vessels (Official Journal 1976, L 21, p. 10). According to Article 22 of Directive 82/714/EEC, Member States were to adopt, after consulting the Commission, the provisions necessary to comply with the directive not later than 1 January 1985.

3 Since the Commission had not received any communication from the Belgian Government within the prescribed period, concerning the measures for implementing the directive in question, it addressed to that Government, on 3 June 1985, a formal notice requesting it to submit, within two months, its observations on the matter. The Belgian Government's observations, which were communicated

by letter of 3 September 1985, were not regarded as satisfactory by the Commission, which, accordingly, on 3 June 1986, delivered a reasoned opinion pursuant to the first paragraph of Article 169 of the EEC Treaty. As that opinion met with no reply, the Commission brought the present action for a declaration that Belgium had failed to fulfil its obligations under the Treaty.

4 Reference is made to the Report for the Hearing for a fuller account of the facts of the case, the course of the proceedings and the submissions and arguments of the parties, which are mentioned or discussed hereinafter only in so far as is necessary for the reasoning of the Court.

5 The Belgian Government acknowledges that it has not yet adopted the domestic measures necessary to implement the directive. It states that the problem of determining which authorities are to be responsible for issuing the Community certificates attesting conformity, introduced by the directive, and the necessity of coordinating different domestic regulations delayed the preparation of a draft royal decree to transpose the directive into Belgian law. At the hearing it indicated that this draft had been prepared, but that difficulties which had arisen in the mean time had delayed its adoption.

6 In that respect, it should be pointed out that, as the Court has consistently held, a Member State cannot plead provisions, practices or circumstances existing in its national legal system to justify the failure to comply with obligations and time-limits laid down in directives.

7 It must therefore be declared that, by failing to adopt within the prescribed period the provisions necessary to comply with Council Directive 82/714/EEC of 4 October 1982 laying down technical requirements for inland waterway vessels, the Kingdom of Belgium has failed to fulfil its obligations under the Treaty.

Costs

8 Under Article 69 (2) of the Rules of Procedure, the unsuccessful party is to be orderd to pay the costs. Since the defendant has failed in its submissions, it must be ordered to pay the costs.

On those grounds,

THE COURT

hereby:

(1) Declares that, by failing to adopt within the prescribed period the provisions necessary to comply with Council Directive 82/714/EEC of 4 October 1982 laying down technical requirements for inland waterway vessels, the Kingdom of Belgium has failed to fulfil its obligations under the EEC Treaty;

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

Mackenzie Stuart Bosco Rodríguez Iglesias Koopmans

Everling Galmot Kakouris Joliet Schockweiler

Delivered in open court in Luxembourg on 24 May 1988.

J.-G. Giraud
Registrar

A. J. Mackenzie Stuart
President