REPORT FOR THE HEARING
delivered in Case 307/86 *

I — Facts and written procedure

1. The aim of Council Directive 82/714/EEC of 4 October 1982 laying down technical requirements for inland waterway vessels (Official Journal 1982, L 301, p. 1) is to establish common rules concerning the technical requirements applying to inland waterway vessels.

Article 22 thereof provides that Member States must, after consulting the Commission, adopt the provisions necessary to comply with the directive not later than 1 January 1985.

2. By that date the Commission had received no communication from the Belgian Government concerning measures to transpose the directive into national law. By letter of 3 June 1985 it therefore formally requested that Government to submit its observations on the infringement of the Treaty provisions resulting from the failure to adopt provisions implementing the directive.

3. In reply to that letter, the Belgian Government, by letter of 3 September 1985 from the Belgian Permanent Representation, informed the Commission that it did not dispute the necessity of domestic measures to ensure compliance with the directive in question. It referred nevertheless to difficulties arising in connection with the definition of responsibilities between the Department of Communications and that of Public Works regarding the designation of the authorities competent to issue the Community certificates. At the same time, it assured the Commission that as soon as this problem had been resolved, every effort would be made to prepare draft legislation designed to bring Belgian law into conformity with the directive.

4. The Commission considered that the Kingdom of Belgium had failed to bring into force Directive 82/714/EEC within the prescribed period and consequently, on 3 June 1986, it delivered a reasoned opinion pursuant to the first paragraph of Article 169 of the EEC Treaty. The reasoned opinion which was notified to the Kingdom of Belgium on 6 June 1986, contained a request to the Belgian State to comply with its terms within two months of notification.

5. At the end of that period, since the Commission had received no reply from the Belgian Government and had at its disposal no information on the basis of which it could conclude that the Kingdom of Belgium's obligations under Directive 82/714/EEC had been fulfilled, it brought the present action for a declaration that Belgium had failed to fulfil its obligations under the Treaty.

The Commission's application was registered at the Court Registry on 5 December 1986.

* Language of the Case: French.

The written procedure followed its normal course.

Upon hearing the report of the Judge-Rapporteur and the views of the Advocate General, the Court decided to open the oral procedure without any preparatory inquiry.

II — Conclusions of the parties

The Commission, the applicant, claims that the Court should:

'1. Declare 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 EEC Treaty;

2. Order the Kingdom of Belgium to pay the costs.'

The Belgian Government, the defendant, did not formulate any conclusions.

III — Submissions and arguments of the parties

In its defence, the Belgian Government explains that the problem of determining which authorities were to be competent to issue the Community certificates prevented the preparation of draft legislation for the transposition of the directive in Belgian law. Since it was not sufficient to draft a royal decree transposing the provisions of the directive into national law, it was necessary to adapt several other pieces of legislation. This requires coordination between various ministerial departments. The Belgian Government states that it will ensure that all the necessary measures are taken as soon as possible.

In its reply, the Commission takes note of the Belgian Government's recognition that it has in fact failed to fulfil its obligations. It concludes that this breach of the Belgian State's obligation will subsist until the entry into force of the measures announced by the Belgian Government.

In its rejoinder, the Belgian Government confirms that the measures necessary to transpose the provisions of the directive into national law require the drafting of several sets of rules. It states that it is not in a position to say exactly when all the measures will enter into force.

G. Bosco
Judge-Rapporteur