JUDGMENT OF THE COURT (Sixth Chamber)
4 May 1995 *

In Case C-218/94,

Commission of the European Communities, represented by Anders Jessen, of the Legal Service, and Jean-Francis Pasquier, a national official on secondment to the Commission's Legal Service, acting as Agents, with an address for service in Luxembourg at the office of Georgios Kremlis, also 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, External 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 failing to adopt the laws, regulations and administrative measures necessary to comply with Council Directive 91/263/EEC of 29 April 1991 on the approximation of the laws of the Member States concerning telecommunications terminal equipment, including the mutual

* Language of the case: French.

recognition of their conformity (OJ 1991 L 128, p. 1), the Kingdom of Belgium has failed to fulfil its obligations under the third paragraph of Article 189 of the EC Treaty and under Article 17 of the above Directive 91/263, and, in the alternative, a declaration that, by failing to inform the Commission without delay of the measures adopted to that end, the Kingdom of Belgium has in any event failed to fulfil its obligations under those provisions,

THE COURT (Sixth Chamber),

composed of: F. A. Schockweiler, President of the Chamber, G. F. Mancini (Rapporteur), J. L. Murray, G. Hirsch and H. Ragnemalm, Judges,

Advocate General: C. O. Lenz,
Registrar: R. Grass,

having regard to the report of the Judge-Rapporteur,

after hearing the Opinion of the Advocate General at the sitting on 23 February 1995,

gives the following

Judgment

1 By application lodged at the Court Registry on 28 July 1994, the Commission of the European Communities brought an action under Article 169 of the EC Treaty for a declaration that, by failing to adopt the laws, regulations and administrative

measures necessary to comply with Council Directive 91/263/EEC of 29 April 1991 on the approximation of the laws of the Member States concerning telecommunications terminal equipment, including the mutual recognition of their conformity (OJ 1991 L 128, p. 1) ('the directive'), the Kingdom of Belgium has failed to fulfil its obligations under the third paragraph of Article 189 of the EC Treaty and under Article 17 of the above Directive 91/263, and, in the alternative, a declaration that, by failing to inform the Commission without delay of the measures adopted to that end, the Kingdom of Belgium has in any event failed to fulfil its obligations under those provisions.

2 Under Article 17 of the directive, Member States were required to take the measures necessary to comply with the directive not later than 6 November 1992 and forthwith to inform the Commission of those measures.

3 The Kingdom of Belgium does not dispute that the directive was not transposed within the period specified. However, it points out that the decrees designed to transpose it are in the process of being drafted.

4 Since the directive was not transposed within the period laid down in Article 17 thereof, it must be held that there has been a failure to fulfil obligations as argued by the Commission.

5 It must accordingly be held that, by failing to adopt within the period specified the laws, regulations and administrative measures necessary to comply with the direc-

tive, the Kingdom of Belgium has failed to fulfil its obligations under Article 189 of the Treaty and under Article 17 of the directive.

Costs

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

On those grounds,

THE COURT (Sixth Chamber)

hereby:

1. **Declares that, by failing to adopt within the period specified the laws, regulations and administrative measures necessary to comply with Council Directive 91/263/EEC of 29 April 1991 on the approximation of the laws of the Member States concerning telecommunications terminal equipment, including the mutual recognition of their conformity, the Kingdom of Belgium has failed to fulfil its obligations under Article 189 of the EC Treaty and Article 17 of Directive 91/263;**

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

Schockweiler Mancini Murray

Hirsch Ragnemalm

Delivered in open court in Luxembourg on 4 May 1995.

R. Grass F. A. Schockweiler

Registrar President of the Sixth Chamber