OPINION OF MR ADVOCATE GENERAL MISCHO
delivered on 15 January 1987 *

Mr President,
Members of the Court,

Since no new factors such as to affect my assessment of this case have arisen during the hearing, I shall deliver my Opinion forthwith.

It is uncontestable and uncontested that, to date, the Kingdom of Belgium has not adopted the measures necessary to comply with the provisions of:

(i) Council Directive 79/279/EEC of 5 March 1979 coordinating the conditions for the admission of securities to official stock exchange listing;

(ii) Council Directive 80/390/EEC of 17 March 1980 coordinating the requirements for the drawing up, scrutiny and distribution of the listing particulars to be published for the admission of securities to official stock listing; and

(iii) Council Directive 82/121/EEC of 15 February 1982 on information to be published on a regular basis by companies the shares of which have been admitted to official stock exchange listing.

Admittedly, the Belgian Government is right to maintain that the three directives deal with a subject-matter of fairly considerable complexity. It is also true that the directives do not introduce full coordination and leave numerous possible options to the Member States. Those options must have necessitated careful consideration and extensive exchanges of views between the various competent departments within the civil service of each Member State. It is also understandable that the Belgian authorities should have wished to take advantage of this opportunity so as, at the same time, to amend national law in certain related areas, which might have given rise to an additional delay.

However, on the other hand it must not be forgotten that soon eight years will have passed since the adoption of the first directive, seven years since the adoption of the second and five years since the adoption of the third. The period given for implementation, which was extended until 30 June 1983, has now been exceeded by three and a half years.

Moreover, as regards the difficulties inherent in the directives themselves, it is appropriate to point to the Court's judgments of 12 October 1982, in which it stressed that 'the governments of the Member States participate in the preparatory work for directives and must therefore be in a position to prepare, within the period prescribed, the draft legislative provisions necessary for their implementation'. [1]

* Translated from the French.

1 — See judgments of 12 October 1982 in Case 136/81 *Commission* v *Italy* [1982] ECR 3547, Case 148/81, *Commission* v *Belgium* [1982] ECR 3555, Case 149/81 *Commission* v *Luxembourg* [1982] ECR 3565 and Case 151/81 *Commission* v *Ireland* [1982] ECR 3573, at paragraph 5.

More generally and in accordance with a principle laid down in an established line of cases which has just been reapplied in the Court's judgment of 15 January 1987 in Case 365/85 *Commission* v *Italy* [1987], 'a Member State may not plead provisions, practices or circumstances existing in its internal legal system in order to justify a failure to comply with obligations and time-limits resulting from Community directives'. [2]

In those circumstances, I cannot but propose that the Court uphold the Commission's application, that is to say that it should:

Declare that, by failing to adopt the measures necessary to comply with the provisions of Council Directives 79/279/EEC, 80/390/EEC and 82/121/EEC, the Kingdom of Belgium has failed to fulfil its obligations under the EEC Treaty;

Order the Kingdom of Belgium to pay the costs.

2 — See, by way of example, the judgment of 20 March 1986 in Case 17/85 *Commission* v *Italy* [1986] ECR 1199, at paragraph 6, and the judgment of 30 April 1986 in Case 158/85 *Commission* v *Italy* [1986] ECR 1489, at paragraph 7.