JUDGMENT OF THE COURT (Sixth Chamber)
19 January 1995 *

In Case C-66/94,

Commission of the European Communities, represented by Gérard Rozet, Legal Adviser, acting as Agent, with an address for service in Luxembourg at the office of Georgios Kremlis, of its Legal Service, Wagner Centre, Kirchberg,

applicant,

v

Kingdom of Belgium, represented by Jan Devadder, Head of Administration at the Ministry of Foreign Affairs, Foreign Trade and Development Cooperation, acting as Agent, with an address for service in Luxembourg at the Belgian Embassy, 4 Rue des Girondins, Résidence Champagne,

defendant,

APPLICATION for a declaration that by failing to bring into force the laws, regulations and administrative provisions necessary to comply with Council Directive 91/687/EEC of 11 December 1991 amending Directives 64/432/EEC, 72/461/EEC and 80/215/EEC as regards certain measures relating to swine-fever (OJ 1991 L 377, p. 16) and with Council Directive 91/688/EEC of 11 December 1991 amending Directive 72/462/EEC on health and veterinary inspection problems upon importation of bovine, ovine and caprine animals and swine, fresh meat

* Language of the case: French.

or meat products from third countries (OJ 1991 L 377, p. 18) and/or by failing to communicate them to the Commission, the Kingdom of Belgium has failed to fulfil its obligations under the penultimate articles of the said directives and Articles 5 and 189 of the EC Treaty,

THE COURT (Sixth Chamber),

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

Advocate General: P. Léger,
Registrar: R. Grass,

having regard to the report of the Judge-Rapporteur,

after hearing the Opinion of the Advocate General at the sitting on 17 November 1994,

gives the following

Judgment

1 By application lodged at the Court Registry on 15 February 1994 the Commission of the European Communities brought an action under Article 169 of the EC Treaty for a declaration that by failing to bring into force the laws, regulations and administrative provisions necessary to comply with Council Directive 91/687/EEC of 11 December 1991 amending Directives 64/432/EEC, 72/461/EEC and 80/215/EEC as regards certain measures relating to swine-fever (OJ 1991 L 377, p. 16, hereinafter 'Directive 91/687') and with Council Directive

91/688/EEC of 11 December 1991 amending Directive 72/462/EEC on health and veterinary inspection problems upon importation of bovine, ovine and caprine animals and swine, fresh meat or meat products from third countries (OJ 1991 L 377, p. 18, hereinafter 'Directive 91/688') and/or by failing to communicate them to the Commission, the Kingdom of Belgium has failed to fulfil its obligations under the penultimate articles of the said directives and Articles 5 and 189 of the EC Treaty.

2 Article 4 of Directive 91/687 and Article 2 of Directive 91/688 provide that the Member States are to bring into force the laws, regulations and administrative provisions necessary to comply with the directives by the dates specified therein for the relevant provisions, which fall between 1 January and 1 July 1992, and that they are to inform the Commission thereof forthwith.

3 The Commission claims that the Kingdom of Belgium has failed to fulfil its obligations under those articles and under Articles 5 and 189 of the EC Treaty.

4 The Kingdom of Belgium does not deny that Directives 91/687 and 91/688 were not transposed within the prescribed period. However, it has stated that the decrees intended to transpose the directives are in the process of completion.

5 Since the directives have not been transposed the failure to fulfil obligations alleged by the Commission must be held to be established.

6 However, having regard to the fact that the Kingdom of Belgium has failed to fulfil the specific obligations imposed on it by the directive, there is no need to consider

the question whether it has also failed to fulfil its obligations under Article 5 of the EC Treaty (see most recently the judgment in Case C-65/94 *Commission* v *Belgium* [1994] ECR I-4627).

7 It must therefore be declared that by failing to adopt within the prescribed period the laws, regulations and administrative provisions necessary to comply with Directives 91/687 and 91/688 the Kingdom of Belgium has failed to fulfil the obligations regarding their transposition imposed on it by Article 4 of Directive 91/687 and Article 2 of Directive 91/688.

Costs

8 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 failing to adopt within the prescribed period the laws, regulations and administrative provisions necessary to comply with Council**

Directive 91/687/EEC of 11 December 1991 amending Directives 64/432/EEC, 72/461/EEC and 80/215/EEC as regards certain measures relating to swine-fever and with Council Directive 91/688/EEC of 11 December 1991 amending Directive 72/462/EEC on health and veterinary inspection problems upon importation of bovine, ovine and caprine animals and swine, fresh meat or meat products from third countries the Kingdom of Belgium has failed to fulfil the obligations regarding their transposition imposed on it by Article 4 of Directive 91/687/EEC and Article 2 of Directive 91/688/EEC;

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

Schockweiler Mancini Kakouris

Murray Hirsch

Delivered in open court in Luxembourg on 19 January 1995.

R. Grass

Registrar

F. A. Schockweiler

President of the Sixth Chamber