JUDGMENT OF THE COURT (Third Chamber)
15 March 2001 *

In Case C-83/00,

Commission of the European Communities, represented by C. van der Hauwaert, acting as Agent, with an address for service in Luxembourg,

applicant,

v

Kingdom of the Netherlands, represented by M.A. Fierstra and J. van Bakel, acting as Agents,

defendant,

APPLICATION for a declaration that, by failing within the prescribed period to adopt the laws, regulations and administrative measures necessary in order to comply with Directive 97/24/EC of the European Parliament and of the Council

* Language of the case: Dutch.

of 17 June 1997 on certain components and characteristics of two or three-wheel motor vehicles (OJ 1997 L 226, p. 1), the Kingdom of the Netherlands has failed to comply with its obligations under the EC Treaty,

THE COURT (Third Chamber),

composed of: C. Gulmann, President of the Chamber, F. Macken and J.N. Cunha Rodrigues (Rapporteur), Judges,

Advocate General: S. Alber,
Registrar: R. Grass,

having regard to the report of the Judge-Rapporteur,

after hearing the Opinion of the Advocate General at the sitting on 30 January 2001,

gives the following

Judgment

1 By application lodged at the Court Registry on 7 March 2000, the Commission of the European Communities brought an action under Article 226 EC for a declaration that, by failing within the prescribed period to adopt the laws, regulations and administrative measures necessary in order to comply with Directive 97/24/EC of the European Parliament and of the Council of 17 June 1997 on certain components and characteristics of two or three-wheel motor vehicles (OJ 1997 L 226, p. 1, hereinafter 'the Directive'), the Kingdom of the Netherlands has failed to comply with its obligations under the EC Treaty.

2 Pursuant to the first subparagraph of Article 8(1) of the Directive, Member States were to bring into force the laws, regulations and administrative provisions necessary to comply with the Directive before 18 December 1998 and to inform the Commission thereof forthwith.

3 Having received no information regarding the transposition of the Directive in the Netherlands, the Commission gave the Kingdom of the Netherlands formal notice by letter of 12 March 1999 to submit its observations.

4 By letter of 21 May 1999, the Netherlands authorities replied to the effect that, since the Directive was voluminous and highly detailed, the time-limit prescribed for its transposition could not be complied with.

5 Consequently, the Commission on 10 August 1999 sent the Kingdom of the Netherlands a reasoned opinion stating that, by failing within the prescribed

period to adopt the laws, regulations and administrative measures necessary in order to comply with the Directive, the Kingdom of the Netherlands had failed to comply with its obligations under the Directive and the Treaty. In that opinion, the Commission requested the Kingdom of the Netherlands to adopt the measures necessary in order to comply with the Directive within two months of its notification.

6 By letter of 12 October 1999, the Netherlands authorities informed the Commission that there existed draft legislation in the matter which had still to be approved by various bodies before being submitted for approval to the Council of Ministers and thereafter sent for information purposes to the Council of State.

7 In those circumstances, the Commission decided to bring the present action.

8 In its defence, the Kingdom of the Netherlands acknowledges that it has not adopted within the prescribed period the measures necessary to transpose the Directive.

9 It states, however, that it is making every effort to transpose the Directive as rapidly as possible but that, first, its legislative procedure in the matter is particularly complex and, second, it is temporarily short of officials with specialist knowledge of the field covered by the Directive. It further maintains that individuals are not in practice suffering any prejudice on account of the delay in transposition.

10 In that regard, it must be pointed out that, according to settled case-law, 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 the obligations and time-limits laid down in a directive (see, in particular, Case C-470/98 *Commission* v *Greece* [2000] ECR I-4657, paragraph 11).

11 Since the Directive has not been transposed within the prescribed time-limit, the action brought by the Commission must be regarded as well founded.

12 Consequently, it must be held that, by failing within the prescribed period to adopt the laws, regulations and administrative measures necessary in order to comply with the Directive, the Kingdom of the Netherlands has failed to comply with its obligations under the Treaty.

Costs

13 Under Article 69(2) of the Rules of Procedure, the unsuccessful party is to be ordered to pay the costs if they have been applied for in the successful party's pleadings. Since the Commission has applied for costs and the Kingdom of the Netherlands has been unsuccessful, the latter must be ordered to pay the costs.

On those grounds,

THE COURT (Third Chamber)

hereby:

1. Declares that, by failing within the prescribed period to adopt the laws, regulations and administrative measures necessary in order to comply with Directive 97/24/EC of the European Parliament and of the Council of 17 June 1997 on certain components and characteristics of two or three-wheel motor vehicles, the Kingdom of the Netherlands has failed to comply with its obligations under the EC Treaty;

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

Gulmann Macken Cunha Rodrigues

Delivered in open court in Luxembourg on 15 March 2001.

R. Grass
Registrar

C. Gulmann
President of the Third Chamber