

JUDGMENT OF THE COURT (Third Chamber)
25 February 1999*

In Case C-319/98,

Commission of the European Communities, represented by Pieter van Nuffel, of its Legal Service, acting as Agent, with an address for service in Luxembourg at the office of Carlos Gómez de la Cruz, also of its Legal Service, Wagner Centre, Kirchberg,

applicant,

v

Kingdom of Belgium, represented by Anni Snoecx, Assistant Adviser in the Directorate General for Legal Affairs, Ministry of Foreign Affairs, External Trade and Cooperation with Developing Countries, 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, within the prescribed period, the laws, regulations and administrative provisions necessary to comply with Directive 94/47/EC of the European Parliament and the Council of 26 October 1994 on the protection of purchasers in respect of certain aspects of contracts relating to the purchase of the right to use immovable properties on a timeshare basis (OJ 1994 L 280, p. 83), the Kingdom of Belgium has failed to fulfil its obligations under that directive,

* Language of the case: French.

THE COURT (Third Chamber),

composed of: J.-P. Puissochet, President of the Chamber, J. C. Moitinho de Almeida and C. Gulmann, Judges,

Advocate General: D. Ruiz-Jarabo Colomer,
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 December 1998,

gives the following

Judgment

- 1 By application lodged at the Court Registry on 18 August 1998, the Commission of the European Communities brought an action under Article 169 of the EC Treaty in which it sought a declaration that, by failing to adopt within the prescribed period the laws, regulations and administrative provisions necessary to comply with Directive 94/47/EC of the European Parliament and the Council of 26 October 1994 on the protection of purchasers in respect of certain aspects of contracts relating to the purchase of the right to use immovable properties on a timeshare basis (OJ 1994 L 280, p. 83) (hereinafter 'the Directive'), the Kingdom of Belgium has failed to fulfil its obligations under that directive.
- 2 Under Article 12 of the Directive, Member States were required to bring into force the laws, regulations and administrative provisions necessary to comply with the

Directive by no later than 30 months after its publication in the *Official Journal of the European Communities*, that is by 30 April 1997, and immediately to inform the Commission thereof.

- 3 Since it had not received any communication relating to the transposition of the Directive into Belgian law and had no other information to show that the Kingdom of Belgium had fulfilled that obligation, the Commission gave formal notice to that State by letter of 9 September 1997, calling on it to submit its observations within a period of two months.
- 4 In the absence of any reply from the Belgian authorities, on 19 February 1998 the Commission sent a reasoned opinion to the Kingdom of Belgium, calling on it to take the measures necessary to comply with its obligations under the Directive within two months of notification of the opinion.
- 5 In response, the Belgian Government informed the Commission, by letter of 20 April 1998, that its Council of Ministers had adopted a draft law, but that the process of transposition had been somewhat delayed. The Belgian law implementing the Directive would be sent to the Commission as soon as it was finally adopted.
- 6 In the absence of any further communication from the Belgian authorities, the Commission brought the present action.
- 7 In its defence, the Belgian Government does not deny that the measures necessary to implement the Directive were not taken within the prescribed period; it states that a draft implementing law was officially filed on 18 August 1998 at the House of Representatives with a view to its adoption at the earliest opportunity and that the Court would be informed as soon as the law entered into force.

- 8 Since the Directive was not transposed within the period prescribed, the Commission's action must be considered well founded.
- 9 Accordingly, it must be held that, by failing to adopt within the prescribed period the laws, regulations and administrative provisions necessary to comply with the Directive, the Kingdom of Belgium has failed to fulfil its obligations under the Directive.

Costs

- 10 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 Belgium 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 to adopt within the prescribed period the laws, regulations and administrative provisions necessary to comply with Directive 94/47/EC of the European Parliament and the Council of 26 October 1994 on the protection of purchasers in respect of certain aspects of contracts relating to the purchase of the right to use immovable properties on a time-share basis, the Kingdom of Belgium has failed to fulfil its obligations under that directive;

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

Puissochet

Moitinho de Almeida

Gulmann

Delivered in open court in Luxembourg on 25 February 1999.

R. Grass

J.-P. Puissochet

Registrar

President of the Third Chamber