

Republic has in any event failed to fulfil its obligations under the said Directive;

— order the French Republic to pay the costs.

Pleas in law and main arguments adduced in support:

The pleas in law and main arguments are the same as in Case C-311/96⁽²⁾; the time-limit laid down in Article 34 of Directive 93/36/EEC expired on 14 June 1994.

⁽¹⁾ OJ No L 199, 9. 8. 1993, p. 1.

⁽²⁾ See Case C-311/96 above.

Action brought on 25 September 1996 by the Commission of the European Communities against the Kingdom of Belgium

(Case C-313/96)

(96/C 354/33)

An action against the Kingdom of Belgium was brought before the Court of Justice of the European Communities on 25 September 1996 by the Commission of the European Communities, represented by Henrik van Lier, Legal Adviser, and Jean-François Pasquier, a national civil servant on secondment to the Legal Service pursuant to the scheme for the secondment of national experts, acting as Agents, with an address for service in Luxembourg at the office of Carlos Gómez de la Cruz, Wagner Centre, Kirchberg.

The Commission of the European Communities claims that the Court should:

— declare that, by failing to adopt the laws, regulations and administrative measures (with the exception of those applicable to mobile gas cylinders containing butane, propane or liquid petroleum gas) necessary in order to comply with Commission Directive 93/21/EEC of 27 April 1993⁽¹⁾ adapting to technical progress for the 18th time Council Directive 67/548/EEC⁽²⁾ on the approximation of the laws, regulations and administrative provisions relating to the classification, packaging and labelling of dangerous substances, and by failing in any event to communicate such measures, the Kingdom of Belgium has failed to fulfil its obligations under that directive;

— order the Kingdom of Belgium to pay the costs.

Pleas in law and main arguments adduced in support:

The pleas in law and main arguments are the same as in Case C 311/96⁽³⁾; the time-limit laid down in Article 2 of Directive 93/21/EEC expired on 1 July 1994.

⁽¹⁾ OJ No L 110, 4. 5. 1993, p. 20.

⁽²⁾ OJ, English Special Edition 1967, p. 234.

⁽³⁾ See Case C-311/96 above.

Reference for a preliminary ruling by the Østre Landsret by a decision of that court of 4 September 1996 in the case of Brinkmann Tabakfabriken GmbH v. Skatteministeriet

(Case C-319/96)

(96/C 354/34)

Reference has been made to the Court of Justice of the European Communities by a decision of the Østre Landsret [Eastern Regional Court] of 4 September 1996, which was received at the Court Registry on 1 October 1996, for a preliminary ruling in the case of Brinkmann Tabakfabriken GmbH against Skatteministeriet (Ministry of Fiscal Affairs) on the following questions:

1. Should the definitions in the Council's second Directive 79/32/EEC of 18 December 1978 on taxes other than turnover taxes which affect the consumption of manufactured tobacco⁽¹⁾, in the version in force on 14 May 1990, be interpreted to the effect that a product with the following characteristics should be classified as cigarettes or as smoking tobacco:

— there is a packet containing 25 g of fine-cut smoking tobacco divided up into 30 rolls of tobacco, industrially manufactured, each roll being of the same size, consistency and uniformity;

— each roll of tobacco is 68,6 mm long and consists of approximately 833 mg of fine-cut smoking tobacco wrapped in cellulose, and pressed out into a thin block;

— the wrapping is porous, and the roll of tobacco cannot be smoked as it is but must be inserted into a cigarette-paper tube or wrapped in ordinary cigarette paper, which in both cases can be done without the use of implements?

If the answer to Question 1 is that the product should be classified as smoking tobacco, the Court is asked to reply to the following questions:

2. Under Community law is an undertaking entitled to compensation for every loss suffered by it as a consequence of a Member State's infringement of Community law, consisting in the fact that an authority responsible for the final administrative decision as to which tax group a tobacco product should fall under has reached a decision which conflicts with Article 3 (1) of Directive 79/32/EEC and, if so, what are the conditions governing such liability?

3. (a) Are the definitions of manufactured tobacco products in Directive 79/32/EEC properly implemented in a Member State if the Minister for Fiscal Affairs is, by law, empowered to lay down provisions concerning the definitions of tobacco products in compliance with the provisions laid down by the European Communities, where no legal provisions have been adopted pursuant to the Law.

If Question 3 (a) is answered in the negative, the Court of Justice is asked to reply to the following question: