(b) the right to oppose any decision to transfer or use as security the assets listed in the annex to the Decree — the assets in question being the majority of the capital of four subsidiaries of the parent company, namely Elf-Aquitaine Production, Elf-Antar France, Elf-Gabon SA and Elf-Congo SA (Article 2(3) of the Decree),

and by failing to lay down sufficiently precise and objective criteria for approval of, or opposition to, the abovementioned operations, the French Republic has failed to comply with its obligations under Articles 52 (now, after amendment, Article 43 EC) to Article 58 of the EC Treaty (now Article 48 EC) and Article 73b of the EC Treaty (now Article 56 EC), the Court, composed of: G.C. Rodríguez Iglesias, President, P. Jann (Rapporteur), N. Colneric and S. von Bahr (Presidents of Chambers), C. Gulmann, D.A.O. Edward, A. La Pergola, J.-P. Puissochet, R. Schintgen, V. Skouris and J.N. Cunha Rodrigues, Judges; H.A. Rühl, Principal Administrator, for the Registrar, has given a judgment on 4 June 2002, in which it:

1. *Declares that, by maintaining in force Article 2(1) and (3) of Decree No 93-1298 of 13 December 1993 vesting in the State a 'golden share' in Société Nationale Elf-Aquitaine, according to which the following rights attach to the 'golden share' held by the French Republic in that company:*

   (a) *any direct or indirect shareholding by a natural or legal person, acting alone or in conjunction with others, which exceeds the ceiling of one tenth, one fifth or one third of the capital of, or voting rights in, the company must first be approved by the Minister for Economic Affairs;*

   (b) *the right to oppose any decision to transfer or use as security the assets listed in the annex to the Decree — the assets in question being the majority of the capital of four subsidiaries of that company, namely Elf-Aquitaine Production, Elf-Antar France, Elf-Gabon SA and Elf-Congo SA,*

   *the French Republic has failed to comply with its obligations under Article 73b of the EC Treaty (now Article 56 EC);*

2. *Orders the French Republic to pay the costs;*

3. *Orders the Kingdom of Spain and the United Kingdom of Great Britain and Northern Ireland to bear their own costs.*

(1) OJ C 79 of 18.3.2000.

**JUDGMENT OF THE COURT**

**4 June 2002**

**in Case C-503/99: Commission of the European Communities v Kingdom of Belgium** (1)

***(Failure by a Member State to fulfil its obligations — Articles 52 of the EC Treaty (now, after amendment, Article 43 EC) and 73b of the EC Treaty (now Article 56 EC) — Rights attaching to the 'golden shares' held by the Kingdom of Belgium in Société nationale de transport par canalisations SA and in Société de distribution du gaz SA)***

(2002/C 169/06)

*(Language of the case: French)*

*(Provisional translation; the definitive translation will be published in the European Court Reports)*

In Case C-503/99, Commission of the European Communities (Agent: M. Patakia) v Kingdom of Belgium (Agent: A. Snoecx, assisted by F. de Montpellier, M. Picat and A. Theissen), supported by United Kingdom of Great Britain and Northern Ireland (Agent: R. Magrill, assisted by J. Crow, barrister, and D. Wyatt, QC): Application for a declaration that, by maintaining in force

— the provisions of the Royal Decree of 10 June 1994 vesting in the State a 'golden share' in Société nationale de transport par canalisations (Moniteur belge of 28 June 1994, p. 17333), which carries the following rights:

  a) advance notice of any transfer, use as security or change in the intended destination of the company's system of lines and conduits which are used or are capable of being used as major infrastructures for the domestic conveyance of energy products must be given to the Minister responsible, who shall be entitled to oppose such operations if he considers that they adversely affect the national interest in the energy sector;

  b) the Minister may appoint two representatives of the Federal Government to the board of directors of the company. Those representatives may propose to the Minister the annulment of any decision of the board of directors which they regard as contrary to the guidelines for the country's energy policy, including the Government's objectives concerning the country's energy supply;

— the provisions of the Royal Decree of 16 June 1994 vesting in the State a 'golden share' in Distrigaz (Moniteur belge of 28 June 1994, p. 17347), which carries the following rights:

a) advance notice of any transfer, use as security or change in the company's strategic assets must be given to the Minister responsible, who shall be entitled to oppose such operations if he considers that they adversely affect the national interest in the energy field;

b) the Minister may appoint two representatives of the Federal Government to the board of directors of the company. Those representatives may propose to the Minister the annulment of any decision of the board of directors or of the management committee which they regard as contrary to the guidelines for the country's energy policy,

and by failing to lay down precise, objective and stable criteria for approval of, or opposition to, the operations referred to above, the Kingdom of Belgium has failed to comply with its obligations under Articles 52 of the EC Treaty (now, after amendment, Article 43 EC) and 73b of the EC Treaty (now Article 56 EC), the Court, composed of: G.C. Rodríguez Iglesias, President, P. Jann (Rapporteur), N. Colneric and S. von Bahr (Presidents of Chambers), C. Gulmann, D.A.O. Edward, A. La Pergola, J.-P. Puissochet, R. Schintgen, V. Skouris and J.N. Cunha Rodrigues, Judges; D. Ruiz-Jarabo Colomer, Advocate General; H.A. Rühl, Principal Administrator, for the Registrar, has given a judgment on 4 June 2002, in which it:

1. *Dismisses the application;*

2. *Orders the Commission of the European Communities to pay the costs;*

3. *Orders the United Kingdom of Great Britain and Northern Ireland to bear its own costs.*

(1) OJ C 79 of 18.3.2000.

**JUDGMENT OF THE COURT**

**(Second Chamber)**

**16 May 2002**

**in Case C-508/99 (Reference for a preliminary ruling from the Verwaltungsgerichtshof): Palais am Stadtpark Hotelbetriebsgesellschaft mbH & Co. KG v Finanzlandesdirektion für Wien, Niederösterreich und Burgenland** (1)

***(Raising of capital — Directive 69/335/EEC — Scope of application — Limited partnership — Assignment of limited partner's share to a company with limited liability — Levy, after the assignment and the entry into force of the directive, of duty directly proportional to the amount of the contribution)***

(2002/C 169/07)

*(Language of the case: German)*

*(Provisional translation; the definitive translation will be published in the European Court Reports)*

In Case C-508/99: Reference to the Court under Article 234 EC by the Verwaltungsgerichtshof (Austria) for a preliminary ruling in the proceedings pending before that court between Palais am Stadtpark Hotelbetriebsgesellschaft mbH & Co. KG and Finanzlandesdirektion für Wien, Niederösterreich und Burgenland, on the interpretation of Council Directive 69/335/EEC of 17 July 1969 concerning indirect taxes on the raising of capital (OJ, English Special Edition 1969 (II), p. 412) as amended by the Act concerning the conditions of accession of the Kingdom of Norway, the Republic of Austria, the Republic of Finland and the Kingdom of Sweden and the adjustments to the Treaties on which the European Union is founded (OJ 1994 C 241, p. 21, and OJ 1995 L 1, p. 1), the Court (Second Chamber), composed of: N. Colneric, President of the Chamber, R. Schintgen (Rapporteur) and V. Skouris, Judges; A. Tizzano, Advocate General; R. Grass, Registrar, has given a judgment on 16 May 2002, in which it has ruled:

*The provisions of Council Directive 69/335/EEC of 17 July 1969 concerning indirect taxes on the raising of capital, as amended by the Act concerning the conditions of Accession of the Kingdom of Norway, the Republic of Austria, the Republic of Finland and the Kingdom of Sweden and the adjustments to the Treaties on which the European Union is founded must be interpreted as not precluding the levy of capital duty upon the conversion of a partnership into a capital company within the meaning of that directive, where, before the entry into force of that directive, a duty such as that provided for in Paragraph 33, item 16(1), point 1(b), of the Gebührengesetz has already been levied on all the capital contributions made for the acquisition of shares in the partnership.*

(1) OJ C 79 of 18.3.2000.