

Reference for a preliminary ruling from the Cour d'arbitrage (Belgium) by order of that court of 13 July 2005 in *Ordre des barreaux francophones et germanophones, Ordre français des avocats du barreau de Bruxelles v Conseil des ministres* and *Ordre des barreaux flamands* and *Ordre néerlandais des avocats du barreau de Bruxelles v Conseil des ministres*

(Case C-305/05)

(2005/C 243/15)

(Language of the case: French)

Reference has been made to the Court of Justice of the European Communities by order of the Cour d'arbitrage (Belgium) of 13 July 2005, received at the Court Registry on 23 July 2004, for a preliminary ruling in the proceedings between *Ordre des barreaux francophones et germanophones, Ordre français des avocats du barreau de Bruxelles v Conseil des ministres* and *Ordre des barreaux flamands* and *Ordre néerlandais des avocats du barreau de Bruxelles v Conseil des ministres* on the following question:

Does Article 1(2) of Directive 2001/97/EC of the European Parliament and of the Council of 4 December 2001 amending Council Directive 91/308/EEC on prevention of the use of the financial system for the purpose of money laundering⁽¹⁾ infringe the right to a fair trial such as is guaranteed by Article 6 of the Convention for the Protection of Human Rights and Fundamental Freedoms, and, as a consequence, Article 6(2) of the Treaty on European Union, in so far as the new Article 2a(5) which it inserts into Directive 91/308/EEC requires the inclusion of members of the independent legal profession, without excluding the profession of avocat, in the scope of application of this same directive, which, in substance, has the aim of imposing an obligation on persons or establishments covered by it to inform the authorities responsible for the fight against money laundering of any fact which might be an indication of such laundering (Article 6 of Directive 91/308/EEC, replaced by Article 1(5) of Directive 2001/97/EC)?

⁽¹⁾ OJ L 344, 28.12.2001, p. 76

Action brought on 4 August 2005 by the Commission of the European Communities against the Kingdom of the Netherlands

(Case C-308/05)

(2005/C 243/16)

(Language of the case: Dutch)

An action against the Kingdom of the Netherlands was brought before the Court of Justice of the European Communities on 4 August 2005 by the Commission of the European Communities, represented by A. Aresu and H. van Vliet, acting as Agents.

The applicant claims that the Court should:

1. Declare that, by not taking the legal and administrative measures necessary to implement Directive 2001/95/EC of the European Parliament and of the Council of 3 December 2001 on general product safety, or in any event by not communicating such measures to the Commission, the Kingdom of the Netherlands has failed to fulfil its obligations under that directive.
2. order Kingdom of the Netherlands to pay the costs.

Pleas in law and main arguments

Article 21 of that directive provides that Member States are to bring the laws, regulations and administrative provisions necessary in order to comply with the directive into force with effect from 15 January 2004, and to inform the Commission thereof forthwith.

The Commission observes that the Kingdom of the Netherlands has still not taken or notified those implementing measures.