

opinion within the period prescribed therein.

2. Article 12 (b) of the Protocol on the Privileges and Immunities of the European Communities provides that officials and other servants of the Community are exempt from any requirement to register in the population registers in the Member States in which the places of employment of the Community institutions are situated. It follows from that provision and Article 5 of the EEC Treaty that the Member States must refrain from adopting any measure which would have the effect of compelling officials and other servants of the Community, whether directly or indirectly, to apply for registration in the population registers. A constraint of that kind is operative in particular where a Member State attaches unfavourable consequences to non-registration by

officials and other servants of the Communities. Municipal by-laws which have the effect of subjecting officials and other servants of the Communities residing within the territory of the municipalities concerned to an indirect constraint to register in the population registers in order to avoid liability to a municipal tax are therefore contrary to Article 5 of the Treaty in conjunction with Article 12 (b) of the Protocol on the Privileges and Immunities of the European Communities.

3. The existence of remedies available through the national courts for challenging measures incompatible with Community law cannot prejudice the making of the application referred to in Article 169 of the Treaty since the two procedures have different objectives and effects.

OPINION OF MR ADVOCATE GENERAL
VERLOREN VAN THEMAAT
delivered on 11 December 1985 *

*Mr President,
Members of the Court,*

I — Introductory remarks

On account of the many diverse points raised by this case, I consider it particularly worthwhile to begin by making general comments on some of those aspects. In my introductory remarks I propose at once to draw certain conclusions based on an examination of the documents before the Court.

1. *Conclusions of the Commission*

The subject-matter of the dispute is clearly defined by the Commission in the conclusions set out in its application where it claims that the Court should:

- (a) Declare that the Kingdom of Belgium has failed to fulfil its obligations under Article 12 (b) of the Protocol on the Privileges and Immunities of the European Communities of 8 April 1965 and Articles 5 and 7 of the EEC Treaty,

* Translated from the Dutch.

- (i) by not taking the necessary measures to ensure that the respective by-laws of the municipalities of Etterbeek, of 13 October 1983, of Woluwé-Saint-Pierre, of 25 November 1983, of Uccle, of 28 February 1984, of Jette, of 15 May 1984, and of Evere, of 26 June 1984, exempt from the tax on secondary residences persons whose principal residence is situated in the municipality concerned and who, by virtue of Article 12 (b) of the Protocol, are not subject to the requirement of being registered in the population registers, that is to say officials and other servants of the European Communities employed in Belgium, and their spouses and dependent members of their families, who are nationals of Member States other than Belgium,
- (ii) by levying, through its local authorities, the said taxes from the above-mentioned persons, and by not taking the necessary measures to ensure that the sums thus levied are reimbursed with interest;
- (b) Order the Kingdom of Belgium to bear the costs.
- Let me straightaway make the following observations regarding those conclusions:
- (a) Article 12 (b) of the Protocol on the Privileges and Immunities of the European Communities (hereinafter referred to as 'the Protocol') provides that in the territory of each Member State and whatever their nationality, officials and other servants of the Communities shall,
- immigration restrictions or to formalities for the registration of aliens'.
- (b) That provision applies to all the Member States. According to certain basic principles on the interpretation of Community law, including the Protocol, the interpretation of Article 12 (b) cannot depend on Belgian national law. According to its wording and also its scope, as defined by the Commission in reply to a question from the Court, that provision applies to any formalities for the registration of aliens, whatever the form that such registration takes in the Member State concerned.
- (c) Since all the provisions of the Protocol are based on Article 28 of the Treaty establishing a Single Council and a Single Commission of the European Communities (Official Journal 152 of 13 July 1967, p. 2), it is also relevant for the interpretation of Article 12 (b) of the Protocol that, according to those provisions, the European Communities' privileges and immunities 'are necessary for the performance of their tasks'.
- (d) It cannot be inferred either from Article 12 (b) itself or from other provisions of the Protocol that officials and other servants of the Communities are exempt from taxes, apart from the indirect taxes referred to in Article 12 (d) and (e), national taxes on salaries, wages and emoluments paid by the Communities, and the domicile-related income tax, wealth tax and death duties referred to in Article 14 of the Protocol. Consequently, officials and other servants of the Communities may, on the same footing as Belgian nationals, be liable for instance to any existing municipal property taxes, road taxes, taxes for the provision of public
- 'together with their spouses and dependent members of their families, not be subject to

services, and also to taxes on any secondary residence they have in Belgium apart from their principal residence.

which have their seat in Brussels and for staff of embassies in Brussels, who are not nationals of another Member State. As the Commission has explained in a reply to a question from the Court, those persons are likewise exempt from the requirement of registration for aliens. Since the Commission's action is also based on the infringement of Article 12 (b) of the Protocol, I shall return to that point, and to the alleged infringement of Article 5 of the EEC Treaty which is connected therewith, in due course.

(e) Where officials or other servants of the Communities who are nationals of other Member States and are consequently exempt from the formalities for the registration of aliens but have their principal residence in one of the municipalities concerned are taxed, as a result of the application of criteria used in municipal by-laws, as if their principal residence were a secondary residence, that necessarily constitutes discrimination on grounds of nationality, within the meaning of Article 7 of the EEC Treaty. In that regard the Commission relies on the Court's judgment of 13 July 1983 in Case 152/81 (*Forcheri* [1983] ECR 2323). It is established that that is what actually happened in one of the municipalities concerned. However, in the circulars issued by the Belgian authorities, to which I shall refer, it is acknowledged that there is no guarantee even in the by-laws of the other municipalities concerned that Community officials who are exempt from registration will be treated in the same way as persons whose principal residence is situated in the municipality concerned and who are registered in the population register. In my view, that too constitutes discrimination on grounds of nationality. The question whether a tax of that kind is also — indirectly — incompatible with Article 12 (b) of the Protocol is, in my view, thus of little practical significance for Community officials. That question is of course important, albeit indirectly, for the staff of other international organizations

(f) In so far as is necessary in order to establish the existence of a fixed principal residence, the obligation imposed on Community officials who are not registered to complete a form designed to provide the information required cannot be regarded *per se* as contrary to Article 12 (b) of the Protocol. At the hearing the Commission confirmed that this was in keeping with its own point of view. A conflict with Article 5 of the EEC Treaty could arise in that regard only if the municipality concerned has already received all the necessary information from the Community institutions themselves through other channels (in particular through the Ministry for Foreign Relations). However, in view of the Commission's position, the Court should not, it seems to me, give a decision on that point. In reality, there is no dispute in that regard between the Commission and the Belgian Government, which has also laid emphasis on the need for a comprehensive system for the provision of information to the municipalities by the Community institutions themselves.

2. *The Belgian Government's position*

The Belgian Government contends that the Court should:

'Declare the Commission's application inadmissible and, in the alternative, unfounded;

Order the Commission to pay the costs.'

Let me straightaway make the following remarks with regard to the position adopted by the Belgian Government:

(a) I shall return to the objection of inadmissibility raised by the defendant in due course.

(b) As far as the substance of the case is concerned, the Belgian Government is now substantially in agreement with the Commission that, being nationals of other Member States and accordingly exempt from the formalities for the registration of aliens, Community officials who have their principal residence in Belgium may not be taxed in respect of that residence as if it were merely a secondary residence. That is clear particularly from the circular from the President of the Executive of the Brussels Region to the mayors and aldermen concerned, which was submitted in reply to a question from the Court. At the hearing, the Belgian Government made it clear that the circular was to be regarded as instructions which were binding on the municipalities concerned requiring them to incorporate in the by-laws in question a provision assimilating the Community officials concerned with persons registered in the population registers. It also stated at the hearing that on 3 October 1985 the Minister of the Interior had sent a mandatory circular to the same effect to all the competent local authorities in Belgium.

(c) Although the Belgian Government is thus pursuing the same ultimate goal as the Commission, it denies that Community law has been infringed in any way. In its view, Article 12 (b) of the Protocol has not been infringed since the Community officials are not subject to any kind of immigration restrictions or formalities for the registration of aliens (as I said earlier, I shall return to this point in due course).

The Belgian Government considers that Article 7 has not been infringed inasmuch as the municipal by-laws are applicable to all secondary residences. Having regard to my previous remarks, I consider that this argument must be rejected if, as in this case, members of staff other than Belgian nationals are taxed in respect of a principal residence which, on account of the fact that their special status is not taken into account in the relevant provisions or in the application thereof, is treated as a secondary residence.

Finally, the Belgian Government considers that the subject-matter of the dispute is essentially within the jurisdiction of the national courts and that the Community officials concerned should therefore avail themselves of national means of redress in order to protect their rights. That view is also expressed in a letter from Belgium's Permanent Representative dated 24 January 1985, which is referred to below.

3. *Assessment of the Belgian Government's basic contention*

The Belgian Government's contention that the subject-matter of the dispute is essentially within the jurisdiction of the national courts is in itself certainly correct. The jurisdiction of the national courts to give

judgment on the individual tax demands in question does not however in any way exclude the Court's jurisdiction to consider the depersonalized subject-matter of the dispute between the Commission and the Belgian State, which is described in the Commission's conclusions. The subject-matter of the dispute is primarily the infringement of Community law by the adoption and application of municipal by-laws imposing a tax, on which the unlawful individual tax demands in question are based.

The difference between national means of redress and those available under Community law is also of considerable practical significance. In the first place, the requirement that the Community servants concerned, who already number 350 and may in the future be even more numerous, must institute proceedings in the national courts every year in which the relevant by-laws remain in force has a disruptive effect on the main work of the Community institutions and their staff. Secondly, the representative of the Belgian Government was obliged to acknowledge at the hearing that a year or two might well elapse before a decision was given on the appeal in cassation lodged in this case by a municipality, in the light of past experience concerning the average duration of such proceedings, unless the appeal were given priority. I would point out in that regard that, should the Court of Cassation also take account of the features of Community law exhibited by the dispute and submit questions thereon to the Court of Justice, the appeal proceedings could certainly last even longer. Throughout that period the municipalities concerned will be able to proceed with the issue of tax demands, which individual Community officials would be able to challenge only by bringing an action every time. Thirdly, and this is the

most important point, national means of redress can never lead to the automatic amendment or repeal of the contested by-laws. According to the explanation given by the Belgian Government at the hearing, they may be repealed only by operation of law; the submission of a draft law to that effect, together with the enactment thereof, or a decision by the Belgian Government to make informal representations to the municipalities concerned, if they fail to comply with the circular referred to earlier, is of course, in the absence of a decision by the Court of Justice, exclusively within the discretion of the Belgian authorities themselves. Moreover, it is by no means necessarily certain that such national measures will have retroactive effect in relation to taxes already imposed and collected or give rise to any obligations to repay such taxes. In my view, therefore, a decision by the Court of Justice in the action brought by the Commission is also necessary for practical reasons.

4. *Structure of this Opinion*

To give a better picture of the facts, I now propose to incorporate in the second part of my Opinion a summary of the facts and procedure taken from the Report for the Hearing, with certain additions of my own. Since I have already set forth the main submissions and arguments of the parties, I propose in the third part of my Opinion to deal with the remaining legal questions, namely the admissibility of the application and the Commission's contention that Article 12 (b) of the Protocol and, in connection therewith, Article 5 of the EEC Treaty have been infringed. Finally, in the fourth part of my Opinion I shall summarize my findings.

II — Facts and course of the procedure

1. In 1983 and 1984, a number of municipalities in the Brussels agglomeration, namely Etterbeek (decision of the Municipal Council of 13 October 1983, approved by the *Députation Permanente* — the competent supervisory body — on 16 February 1984), Jette (decision of 15 May 1984, approved on 26 July 1984), Uccle (decision of 28 February 1984, approved on 1 May 1984), Woluwé-Saint-Pierre (decision of 25 November 1983, approved on 31 January 1984) and Evere (decision of 26 June 1984, approved on 13 September 1984), adopted by-laws imposing a 'tax on residences other than the principal residence' or a 'tax on secondary residences'.

2. The tax is imposed on residents who are not registered in the population registers of the municipalities concerned; officials and other servants of the Communities employed in Belgium who are nationals of a Member State other than Belgium, together with their spouses and dependent members of their families, are exempt from registration.

3. The municipal by-laws of Etterbeek, Uccle, Jette and Evere, which are all drafted in similar terms, define secondary residence as 'any private residence other than that intended as the principal residence ...' and impose the tax on 'persons who are not registered in the population registers' of the municipality and who are owners or tenants of accommodation used as a secondary residence or who use it without payment.

4. According to the municipal by-laws of Woluwé-Saint-Pierre, the tax is payable by any person who has at his disposal a secondary residence, meaning any residence in respect of which the occupier is not registered as a resident in the population registers.

5. In each case the amount of the tax is fixed at BFR 10 000 per year in respect of each residence.

6. All the above-mentioned by-laws lay down a procedure enabling those liable to the tax to lodge complaints with the *Députation Permanente* of the Provincial Council within three months after the issue of the notice of assessment. Those by-laws also provide for certain exceptions, none of which is applicable to officials of the European Communities.

7. According to the relevant national legislation the term 'population registers' means:

- '(a) *the population register itself*, known as the principal register;
- (b) the index, *the special register of aliens* and the registers of arrivals, departures, births, Belgian identity cards and identity documents ...'.

In principle, aliens who establish their residence in Belgium are registered in the special register of aliens. However, two categories of aliens, in addition to Belgian nationals, must also be registered in the principal register;

- (a) aliens whose 'application for establishment' has been accepted, if they can show that they have been lawfully resident for an uninterrupted period of five years in the Kingdom of Belgium.
- (b) nationals of Member States of the European Community who come to Belgium in order to take up employment there or to carry on an activity as self-employed persons with an expected duration of longer than one year, provided that their 'application for establishment' has been accepted either by the Minister or by their local authority.

Aliens registered in the population register are removed from the aliens register. Persons who are required to register in the population registers (the principal register or the aliens register) must do so in the municipality in which their principal habitual residence is situated.

Registration in the population register of a municipality is evidence that the principal residence of the person concerned is situated within that municipality, in view of the fact that since March 1981 a person cannot be registered as principally resident in more than one Belgian municipality.

8. Officials and other servants of the European Communities employed in Belgium, together with their spouses and dependent members of their families, are issued by the Belgian Ministry for Foreign Relations with a special residence permit bearing the following stamp: 'Exempt from registration in the aliens register by virtue of the Law of 13 May 1966 concerning the Protocol on the Privileges and Immunities of the European Communities.' That permit is valid for four years. It is issued only to persons who are not Belgian nationals.

Belgian officials of the European Communities are registered in the population registers of their municipality. Officials of the European Communities of other nationalities are not registered in any municipal register. Their private addresses are regularly notified to the Protocol Department of the Belgian Ministry for Foreign Relations and classified according to the municipality. Those addresses are notified by the Ministry to the various municipalities concerned.

A circular issued by the Minister of the Interior on 19 March 1981 expressly

provides that 'aliens who perform in Belgium functions entrusted to them by the European Communities are not required to register in the population registers of a Belgian municipality either'.

9. When the existence of those various by-laws came to its notice, the Commission, through its Director-General for Personnel and Administration, made representations in writing to Belgium's Permanent Representative and sent copies of its letters to the mayors of the municipalities concerned requesting them to suspend the application of those by-laws pending the conclusion of a comprehensive agreement with the central authorities (letters of 24 May, 19 June, 2 July, 31 July, 17 October and 12 December 1984 and 22 January 1985). The Commission pointed out, referring to Article 12 (b) of the Protocol, that the fact that officials of the European Communities were not registered in the population registers was not in itself a ground for assuming that they occupied a secondary residence, and that they could not be charged the tax in question on the strength of that presumption. It held numerous informal discussions on that point with the competent authorities and was informed, by letter of 24 January 1985 from Belgium's Permanent Representative, that the Belgian Government had taken a number of steps in that regard.

Towards the end of 1984, notwithstanding the steps taken, the municipality of Woluwe-Saint-Pierre sent notices of assessment to some 10 Community officials residing within its territory demanding payment of BFR 10 000 within two months by way of the tax on secondary residences. The Commission accordingly took further steps but once again to no avail.

10. The Commission therefore decided by the accelerated procedure to apply Article

169 of the EEC Treaty; by letter of 12 February 1985 it notified its decision to the Belgian Government requesting it to submit its views within two weeks. That letter remained unanswered.

11. At the same time as the Commission initiated its procedure, the officials concerned lodged complaints with the *Députation Permanente* of the Province of Brabant in which they sought the annulment of the tax notice. By decision of 7 February 1985, the *Députation Permanente* upheld one of the complaints.

However, on 20 February 1985, the municipality of Woluwé-Saint-Pierre sent, on the same day, to some 250 other officials residing within its territory notices of assessment demanding payment of the tax by 22 April 1985 at the latest.

By letter of 26 February 1985, Mr W. de Clercq, a Member of the Commission, again invited the Belgian Minister of the Interior to assist in finding a solution. By letter of 4 March 1985, the Director General for Personnel and Administration renewed his request to Belgium's Permanent Representation for a swift settlement of the matter.

12. On 8 March 1985 the Commission requested the Kingdom of Belgium, in a reasoned opinion delivered under the accelerated procedure, to adopt within two weeks the measures needed to comply with the terms of that opinion, and, more particularly, to repeal the unlawful provisions of the municipal by-laws and reimburse the sums paid by way of tax, together with interest thereon.

By telex message of 19 March 1985 the Kingdom of Belgium asked for more time; the Commission refused that request by telex message of 27 March 1985.

The Commission's reasoned opinion evoked no response.

13. By application lodged at the Court Registry on 3 April 1985 the Commission initiated the procedure under the second paragraph of Article 169 of the EEC Treaty for failure by Belgium to fulfil its obligations.

14. By telex message of 13 May 1985, the Commission notified the Court that it was not submitting a reply and asked for the date of the hearing to be fixed as soon as possible, in view of the fact that the collection of the tax had not been suspended and that measures were being taken to enforce it, whilst the number of officials concerned had increased from some 260 to over 350.

15. On hearing the report of the Judge-Rapporteur and the views of the Advocate General, the Court decided to open the oral procedure without any preparatory inquiry. However, it put certain questions to the Commission regarding the purpose of Article 12 (b) of the Protocol and to the Belgian Government regarding the outcome of the exchange of views between that Government and the supervisory authorities with a view to resolving the difficulty which had arisen.

In its reply, the Commission stated, in brief, that Article 12 (b) of the Protocol, like similar provisions in comparable protocols which have been adopted for practically all international organizations, incorporates one of the classic features of diplomatic immunity and is intended, in the light, in particular, of Article 18 of the Protocol, to enable Community servants to perform their tasks without hindrance. That aim has remained the same as that of the protocols of the separate Communities. It must be

borne in mind that the Community rules relating to the admission, residence and registration of nationals of other Member States in general still permit the imposition of certain restrictions on immigration and residence which, according to the Protocol, may not be applied to officials of the Communities.

The Belgian Government, in reply to the question put to it by the Court, stated that the *ad hoc* working party had proposed that the supervisory authorities responsible for the municipalities in the Brussels agglomeration should send the municipalities a circular, to be published in the *Moniteur Belge*, requesting them to insert in their by-laws concerning secondary residences a provision assimilating officials and other servants of the European Communities whose principal residence is situated in the municipality to persons registered in the population registers. A copy of the circular which was to be sent — and which, according to the information furnished at the hearing, has in the meantime actually been sent — to the municipalities in the Brussels agglomeration, signed by the president of the executive, is annexed to the reply. A draft circular couched in the same terms was shortly to be submitted to the Ministry of the Interior. At the hearing it was stated that the second circular had in the meantime also been sent.

III — Assessment of the remaining legal questions

1. *Admissibility of the application*

In its defence, the Belgian Government argues in the first place that the exceptional procedure applied by the Commission, whereby periods of less than a month elapsed between the formal notification of the infringement and the date on which the

reasoned opinion was given, and then between that date and the institution of proceedings, disregards the principle that every Member State is entitled to be accorded a reasonable period by the Commission. At the hearing the Belgian Government's representative made it clear, in reply to questions from the Court, that the Belgian Government would have considered six months to one year a reasonable period. As I observed earlier in my summary of the facts, it is clear that for about a year before it instituted proceedings, the Commission had been regularly writing to Belgium's Permanent Representative, sending copies of its letters to the mayors of the municipalities concerned asking for the application of the several by-laws to be suspended pending the conclusion of a comprehensive agreement with the central authorities. That has not been denied by the Belgian Government. In those circumstances and also in view of the extra burden which those municipalities' actions unquestionably imposed on an increasing number of Community officials, I consider that the defendant's first plea that the application is inadmissible must be rejected.

Secondly, the Belgian Government argues, as I stated earlier, that Community law has not been infringed in this case and that the problem must consequently be resolved in proceedings before the national courts. Since that argument is essentially concerned with the substance of the case, it must also be rejected in so far as it constitutes an objection of inadmissibility.

2. *Alleged infringement of Article 12 (b) of the Protocol*

According to the application and to the further details of its position which it furnished at the hearing, the Commission considers that it is in particular the failure to

exempt Community officials from the registration requirement that constitutes the alleged infringement of Article 12 (b) of the Protocol. In its view, the infringement lies in the fact that the municipalities in question have imposed the tax in respect of secondary residences on Community officials on the ground that they are not registered in the population registers. No provision is made for exemption from the tax on the basis of exemption from registration where the principal residence is situated in the municipality concerned. The most conspicuous example is provided by the tax by-law of the municipality of Woluwé-Saint-Pierre (the scene of the greatest concentration of disputes so far).

However, the Commission's conclusion is couched in broader terms in that regard and alleges infringement of Article 12 (b) of the Protocol as a whole on the grounds referred to in that conclusion.

In my view, moreover, the Commission has argued correctly in its above-mentioned answer to a question from the Court that Article 12 (b) goes further than the right vested in all nationals of other Member States to freedom of movement. That also follows, in my view, from the fact that Article 12 (b) is borrowed from the comparable protocols of the United Nations and other international organizations and from still earlier rules concerning the immunities and privileges of diplomatic missions (which are expressly referred to by the Protocol of the North Atlantic Treaty Organization, mentioned by the Commission). In such cases there is, as a rule, no right to equal treatment of the kind enjoyed by nationals of the country of establishment which is comparable to that under Community law. Moreover, such a

right to equal treatment in countries in which the comparable rights of nationals are subject to numerous restrictions would be insufficient to guarantee the autonomous and unhindered performance of the tasks of the organizations or diplomatic missions concerned. Article 12 (b) of the Protocol must therefore, in my view, be interpreted on its own, even though, according to the above-mentioned judgment of the Court in *Forcheri*, it does not preclude reliance by Community officials *at the same time* on the generally applicable Community rules concerning the freedom of movement.

In my view, if interpreted on its own and in the light of Article 18 of the Protocol and Article 28 of the Treaty establishing a Single Council and a Single Commission of the European Communities, the exemption from immigration restrictions and from the requirement of registration for aliens must be taken to encompass all restrictions which actually limit either freedom of immigration (including, in view of their scope, freedom of residence) or exemption from the requirement of registration for aliens and at the same time hinder the Community officials concerned in the performance of their duties.

In my view, those criteria are met in this case. Freedom of residence and, in conjunction therewith, freedom of immigration are restricted by the fact that Community servants are liable to a higher municipal tax than Belgian nationals or at least by the fact that the rules in question do not treat Community officials and Belgian nationals registered in the population register on the same footing. Moreover, the exemption from the requirement of registration for aliens is restricted in practice by the fact that the by-laws in question clearly exert pressure on Community officials to

register notwithstanding their exemption. The suggestion made by the Belgian Government during both the written and the oral procedure to the effect that registration in the population register would be the easiest way of resolving the dispute confirms the existence of such pressure. Finally, since the Community officials concerned are in any event compelled to pay the taxes, which, as the Belgian Government agrees, are not legally due, and subsequently to institute proceedings in order to challenge the tax notices, they are naturally hindered in the exercise of their normal duties.

The argument put forward by the Belgian Government in its defence to the effect that officials and other servants of the Communities are not subject to any immigration restrictions or formalities for the registration of aliens should therefore, in my view, be rejected and the Commission's submission should be upheld.

3. *Alleged infringement of Article 5 of the EEC Treaty*

In my view, the Commission's allegation in the application that the Kingdom of Belgium has infringed Article 5 of the EEC Treaty has also been established. In particular, it is now clear, in my view, in the light of the information provided during the written and oral procedures that:

- (a) the municipalities concerned, or at least one or more of them, adopted by-laws which are incompatible with the last sentence of that article and which jeopardize, as stated earlier, the attainment of the objectives of the EEC Treaty;
- (b) contrary to the first paragraph of Article 5, the supervisory authority failed to object within the period of 40 days laid down by Belgian law to the entry into force of those by-laws without amendment.

IV — Conclusion

To summarize my findings, I suggest that the Court should:

- (1) Declare that the Kingdom of Belgium has failed to fulfil its obligations under Article 12 (b) of the Protocol on the Privileges and Immunities of the European Communities of 8 April 1965 and Articles 5 and 7 of the EEC Treaty by not adopting the measures necessary to ensure that, at the time of the adoption or the implementation of the by-laws of certain municipalities within the Brussels agglomeration, those persons whose principal residence is situated in those municipalities and who are exempt, pursuant to Article 12 (b) of the Protocol, from the requirement of being registered in the corresponding population registers (that is to say, officials and other servants of the European Communities employed in Belgium who are nationals of Member States other than Belgium, together with their spouses and dependent members of their families), are exempted from the taxes imposed by those by-laws in respect of secondary residences;
- (2) Order the Kingdom of Belgium to pay the costs.