

OPINION OF MRS ADVOCATE GENERAL ROZÉS
DELIVERED ON 12 MAY 1982¹

*Mr President,
Members of the Court,*

By an interim judgment of 17 December 1980 the Court gave the Commission and the Kingdom of Belgium until 1 July 1981 to re-examine the issue between them in the light of the legal considerations contained in that judgment and to report to the Court on the result of that examination.

Although that period was extended until 31 October 1981 the parties have not been able to agree on a single report to be submitted to the Court.

The subsequent written and oral argument has not taken the matter further. The Belgian Government adheres to its point of view, which was examined in detail in the opinion of Mr Advocate General Mayras of 24 September 1980 and in the Court's judgment of 17 December. As for the Commission, it has now fallen into line with that opinion, deleting from its application most of the posts which the Advocate General had himself ruled out (architects, municipal and communal supervisors) and even some posts of night watchman. On the other hand its views on the posts of hospital nurse and children's nurse remain unchanged.

The considerations set forth in the Court's judgment mean that the posts of French-speaking hospital nurse and children's nurse with the crèches of the municipalities of Auderghem and Brussels must be classified amongst the posts which Mr Advocate General Mayras considered in his opinion of 24 September 1980 did not come within the concept of public service within the meaning of Article 48 (4) of the Treaty.

If the Court upholds that view the Kingdom of Belgium and the interveners must bear the costs.

¹ — Translated from the French.