OPINION OF ADVOCATE GENERAL MISCHO

delivered on 20 June 2002 [1]

1. In the action which is the subject of this Opinion, the Commission of the European Communities seeks a declaration that, by failing to adopt the laws, regulations and administrative provisions necessary to comply with Council Directive 98/20/EC of 30 March 1998 amending Directive 92/14/EEC on the limitation of the operation of aeroplanes covered by Part II, Chapter 2, Volume 1 of Annex 16 to the Convention on International Civil Aviation, second edition (1988), [2] Ireland has failed to fulfil its obligations under that directive.

2. The Commission observes that under Article 3 of the Directive the Member States are to bring into force the laws, regulations and administrative provisions necessary to comply with their obligations thereunder by 1 March 1999 at the latest and that they are immediately to inform the Commission of the measures adopted for that purpose. [3]

3. Since it had received no information from which it could conclude that Ireland had adopted the necessary measures, the Commission brought the action which is the subject of this Opinion.

4. Ireland concedes that it did not adopt the implementation measures required within the period prescribed. However, it requests the Court to suspend the procedure for a period of three months, by which time it anticipates that the Directive will have been implemented in Ireland, and hopes that the Commission will then discontinue proceedings.

5. Neither the existence of Ireland's obligation to adopt the measures necessary to comply with the Directive nor the failure to comply with that obligation can be disputed. In that respect, it should be remembered that the Commission sent Ireland a reasoned opinion dated 21 October 1999 which set a time-limit of two months for

1 — Original language: French.

2 — OJ 1998 L 107, p. 4

3 — In that context, the Commission cites Article 2 of the Directive. However, it is clear, and the defendant is not mistaken in this, that it is in fact Article 3 to which the Commission is referring.

the adoption of the necessary measures and that Ireland itself admits that this has not been done since those measures are still in the course of being adopted.

6. The finding by the Court of a failure to fulfil obligations is therefore justified.

Conclusion

7. For the above reasons, it is proposed that the Court should:

— declare that, by failing to adopt the laws, regulations and administrative provisions necessary to comply with Council Directive 98/20/EC of 30 March 1998 amending Directive 92/14/EEC on the limitation of the operation of aeroplanes covered by Part II, Chapter 2, Volume 1 of Annex 16 to the Convention on International Civil Aviation, second edition (1988), Ireland has failed to fulfil its obligations under that Directive;

— order Ireland to pay the costs.