6 December 2005 in Joined Cases C-453/03, C-11/04, C-12/04 and C-194/04 *ABNA and Others*, that that provision was invalid, did not create a legal vacuum or a situation of inconsistency requiring the Community institutions to adopt the substantive amendments of Directive 2002/2.

In any event, the invalidity of a Community provision results directly from the judgment of the Court declaring that invalidity and it is for the national authorities and courts of the Member States to draw the consequences from that declaration in their national legal order.

Judgment of the Court (Eighth Chamber) of 8 November 2007 — Commission v Belgium

(Case C-3/07)

Failure of a Member State to fulfil obligations — Directive 2003/110/EC — Assistance in cases of transit — Removal by air — Failure to transpose within the period prescribed

1. *Actions for failure to fulfil obligations — Subject-matter of the dispute — Directive not sufficiently transposed without legislative action (Art. 226 EC; Council Directive 2003/110, Art. 5(2) (see paras 6, 7)*

2. *Acts of the institutions — Directives — Implemention by the Member States (Art. 249, third para., EC) (see para. 11)*

3. *Actions for failure to fulfil obligations — Examination of merits by the Court — Situation to be taken into consideration — Situation on expiry of the period laid down in the reasoned opinion (Art. 226 EC) (see para. 13)*

Re:

FAILURE of a Member State to fulfil obligations — Failure to adopt, within the period prescribed, the measures necessary to comply with Council Directive 2003/110/EC of 25 November 2003 on assistance in cases of transit for the purposes of removal by air (OJ 2003 L 321, p. 26).

Operative part

1. By failing to adopt, within the period prescribed, the laws, regulations and administrative provisions necessary to comply with Council Directive 2003/110/EC of 25 November 2003 on assistance in cases of transit for the purposes of removal by air, with the exception of Article 5(2) of that directive, the Kingdom of Belgium has failed to fulfil its obligations thereunder;

2. The action is dismissed in respect of the failure to transpose Article 5(2) of Directive 2003/110;

3. The Kingdom of Belgium is ordered to pay the costs.

Judgment of the Court (Eighth Chamber) of 8 November 2007 — Commission v Italy

(Case C-40/07)

Failure of a Member State to fulfil obligations — Directive 2001/42/EC — Assessment of the effects of certain plans and programmes on the environment — Failure to transpose within the period prescribed