# JUDGMENT OF THE COURT (Third Chamber)
15 October 2002 *

In Case C-328/01,

**Commission of the European Communities,** represented by M. Huttunen, acting as Agent, with an address for service in Luxembourg,

applicant,

v

**Ireland,** represented by D.J. O'Hagan and C. O'Rourke, acting as Agents, with an address for service in Luxembourg,

defendant,

* Language of the case: English.

APPLICATION for a declaration that, by failing to adopt the laws, regulations or administrative provisions necessary to comply with Commission Directive 1999/28/EC of 21 April 1999 amending the Annex to Council 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) (OJ 1999 L 118, p. 53) or, in any event, by failing to inform the Commission of the adoption of those measures, Ireland has failed to fulfil its obligations under that directive,

THE COURT (Third Chamber),

composed of: J.-P. Puissochet (Rapporteur), President of the Chamber, F. Macken and J.N. Cunha Rodrigues, Judges,

Advocate General: A. Tizzano,
Registrar: R. Grass,

having regard to the report of the Judge-Rapporteur,

after hearing the Opinion of the Advocate General at the sitting on 20 June 2002,

gives the following

## Judgment

1 By application lodged at the Court Registry on 31 August 2001, the Commission of the European Communities brought an action under Article 226 EC for a declaration that, by failing to adopt the laws, regulations or administrative provisions necessary to comply with Commission Directive 1999/28/EC of 21 April 1999 amending the Annex to Council 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) (OJ 1999 L 118, p. 53) or, in any event, by failing to inform the Commission of the adoption of those measures, Ireland has failed to fulfil its obligations under that directive.

### The relevant provisions

2 Article 2(1) of Directive 1999/28 provides that 'Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive by 1 September 1999' and that 'they shall forthwith inform the Commission thereof'.

## Pre-litigation procedure

3 In accordance with the procedure laid down in the first paragraph of Article 226 EC, the Commission, having given Ireland the opportunity to submit its observations, sent a reasoned opinion to it, by letter of 3 August 2000, inviting it to take the measures necessary to fulfil its obligations under Directive 1999/28 within two months of notification of the opinion.

4 The Irish authorities responded to that reasoned opinion by letter dated 14 September 2000 and explained that the failure to comply with the time-limit for implementation resulted from the decision taken by Ireland to combine the implementation of Directive 1999/28 with that of 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) (OJ 1988 L 107, p. 4). They also stated that a draft law, which they had communicated to the Commission, was being considered by the Office of the Attorney General and that it would be adopted very quickly.

5 Not having received the final text of the provisions implementing Directive 1999/28 in Irish law by 30 August 2001, the Commission brought the present action.

## The failure to fulfil obligations

6 The Commission considers that, by not initiating the procedure necessary for the implementation of Directive 1999/28 in national law in good time to effect that

implementation before expiry of the period prescribed for that purpose, Ireland has failed to fulfil its obligations under that directive and under the third paragraph of Article 249 EC and the first paragraph of Article 10 EC.

7 The Irish Government does not dispute that Directive 1999/28 was not implemented within the prescribed time-limit. It submits that the provisions intended to implement that directive should be adopted very quickly.

8 Even if the law, the adoption of which has been announced by the Irish Government, were to put an end to the failure to fulfil the obligations in question, it is undisputed that it was not adopted by the expiry of the time-limit prescribed by the reasoned opinion.

9 It must therefore be held that, by failing to adopt, within the prescribed time-limit, the laws, regulations or administrative provisions necessary to comply with Directive 1999/28, Ireland has failed to fulfil its obligations under that directive.

## Costs

10 Under Article 69(2) of the Rules of Procedure, the unsuccessful party is to be ordered to pay the costs if they have been applied for in the successful party's pleadings. Since the Commission has applied for costs to be awarded against Ireland and the latter has been unsuccessful, Ireland must be ordered to pay the costs.

On those grounds,

THE COURT (Third Chamber)

hereby:

1. Declares that, by failing to adopt, within the prescribed time-limit, the laws, regulations or administrative provisions necessary to comply with Commission Directive 1999/28/EC of 21 April 1999 amending the Annex to Council 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;

2. Orders Ireland to pay the costs.

Puissochet Macken Cunha Rodrigues

Delivered in open court in Luxembourg on 15 October 2002.

R. Grass — Registrar

J.-P. Puissochet — President of the Third Chamber