

**Judgment of the Court (Seventh Chamber) of 1 April 2008 —
Commission v Luxembourg**

(Case C-417/07)

(Failure of a Member State to fulfil obligations — Directive 2004/36/EC —
Safety of third-country aircraft using Community airports —
Failure to transpose within the prescribed period)

1. *Actions for failure to fulfil obligations — Right of the Commission to bring judicial proceedings — To be exercised at its discretion (Art. 226 EC) (see para. 7)*

2. *Acts of the institutions — Directives — Implementation by Member States — Need for clear and precise transposition (Art. 249 EC) (see para. 10)*

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. 12)*

Re:

Failure of a Member State to fulfil obligations — Failure to adopt, within the prescribed period, the measures necessary to comply with Directive 2004/36/EC of the European Parliament and of the Council of 21 April 2004 on the safety of third-country aircraft using Community airports (OJ 2004 L 143, p. 76).

Operative part

The Court:

1. Declares that by failing to adopt, within the prescribed period, the laws, regulations and administrative provisions necessary to comply with Directive 2004/36/EC of the European Parliament and of the Council of 21 April 2004 on the safety of third-country aircraft using Community airports, the Grand Duchy of Luxembourg has failed to fulfil its obligations under that directive;
2. Orders the Grand Duchy of Luxembourg to pay the costs.

Judgment of the Court (Fifth Chamber) of 3 April 2008 — Commission v Belgium

(Case C-522/06)

(Failure of a Member State to fulfil obligations — Regulation (EC)
No 2037/2000 — Substances that deplete the ozone layer — Recovery,
recycling, reclamation and destruction of those substances)

*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. 19)*

Re:

Failure of a Member State to fulfil obligations — Regulation (EC) No 2037/2000 of the European Parliament and of the Council of 29 June 2000 on substances that deplete the ozone layer (OJ 2000 L 244, p. 1) — Articles 16(5) and 17(1) — Failure to adopt