

CAPE TOWN CONVENTION LEGAL ACTIVITY ANALYSIS¹

Produced by the Legal Advisory Panel to the Aviation Working Group

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Reference: Ireland, case 1 [2012]		
Date of Judgment:	17 December 2012	
Case:	PNC Equipment finance LLC –v- Aviareto Limited and Link Aviation LLC (unreported)	
Relevant CTC/Protocol (IR Rules and Procedures)	Article 40; Article 44(1); Article 44(3)	IR Rules and Procedures None
Relevant CTC Jurisdictions	Ireland; USA	
CTC Related Facts, Conclusions and Analysis		
I. Facts		
<p>1. The Defendant, a US corporation, registered a non-consensual interest in relation to a US registered aircraft owned by another US corporation. The US had not made a declaration under Article 40. A Minnesota Court declared that the registration was invalid and ordered the Defendant to discharge the invalid registration.</p> <p>2. The Defendant failed to comply with the Minnesota Court Order. The Applicant, a US corporation, sought an order of the Irish High Court (the Court) under its Article 44(1) jurisdiction. That provision permits Irish courts to make orders against the registrar (Registrar) of the CTC international registry (International Registry). The order sought was to discharge the registration.</p>		

¹ Unless otherwise indicated, Articles references in Arabic numerals are to those the Convention on International Interests in Mobile Equipment (**Convention**), and in Roman numerals are to those on the Protocol on Matters Specific to Aircraft Objects (**Protocol**). The Convention, as modified by the Protocol, is referred to as **CTC**.

² See part IV, if applicable, containing annotations based on subsequent legal developments

3. The Defendant did not make an appearance in the proceedings.

II. Conclusions

4. The Court ordered the Defendant (being a party which, pursuant to Article 44(3), had failed to comply with an order of a Minnesota Court (being a court with jurisdiction under CTC)) to procure discharge of a registration of an invalid non-consensual interest, failing which, the Registrar was ordered to discharge the registration.

5. The Applicant's and the Registrar's costs were awarded against the Defendant.

III. Analysis

6. This case was resolved in less than two months. There were no factual disputes, as the Defendant did not appear. The case was not appealed.

7. This was the first CTC case faced by the Court. It was straightforward, falling squarely within the Court's jurisdiction under Article 44(1) to order the Registrar to discharge a registration on the grounds that the Defendant failed to comply with an order of a court having jurisdiction under CTC as contemplated by Article 44(3).

8. The Court did not specifically consider what is meant by "a court having jurisdiction under this Convention" in Article 44(3). By its acceptance of jurisdiction to make the order, it appeared to assume that the Minnesota Court, as a US Court, had jurisdiction under the Convention.

9. The relative speed of the case, and award of costs, demonstrates the Court's understanding of the need for expediency in dealing with aircraft and to support and uphold the credibility of the International Registry.

IV. Annotations Reflecting Subsequent Legal Developments

N/A