

VII Unlawfulness of the increase in the fine on account of further wrongful conduct for other reasons. Failure to observe the principle of proportionality. Excessive amount. Failure to state reasons.

VIII Infringement of the principle of equal treatment in the reduction of the amount of the fine on account of mitigating circumstances. Late statement of reasons.

⁽¹⁾ Council Regulation (EC) No 1/2003 of 16 December 2002 on the implementation of the rules on competition laid down in Articles 81 and 82 of the Treaty (OJ 2003 L 1, p. 1).

⁽²⁾ Commission Regulation (EC) No 773/2004 of 7 April 2004 relating to the conduct of proceedings by the Commission pursuant to Articles 81 and 82 of the EC Treaty (OJ 2004 L 123, p. 18).

Action brought on 31 January 2023 — European Commission v Federal Republic of Germany

(Case C-47/23)

(2023/C 94/33)

Language of the case: German

Parties

Applicant: European Commission (represented by: C. Hermes and M. Noll-Ehlers, acting as Agents)

Defendant: Federal Republic of Germany

Form of order sought

The Commission claims that the Court should:

- find that the Federal Republic of Germany infringed its obligations under Article 6(2) and the second subparagraph of Article 4(1) of Directive 92/43/EEC ⁽¹⁾ in relation to habitat types 6510 (Lowland hay meadows) and 6520 (Mountain hay meadows) protected by the Natura 2000 network in so far as it
- generally and structurally failed to take appropriate measures to avoid the deterioration of habitat types 6510 and 6520 in the designated sites, and it
- generally and structurally failed to send updated data to the Commission for habitat types 6510 and 6520 in the designated sites;
- order the Federal Republic of Germany to pay the costs of the proceedings.

Pleas in law and main arguments

By its action, the Commission claims that the Federal Republic of Germany has systematically infringed its obligation under Article 6(2) of Directive 92/43/EEC to protect Natura 2000 sites against deterioration of the natural habitats included therein, in particular in respect of two important habitat types of Community interest, namely Lowland hay meadows (LRT 6510) and Mountain hay meadows (LRT 6520).

That systematic infringement of the prohibition of deterioration follows, first, from data sent by Germany itself, showing that between 2006 and 2020 in more than a quarter of the Natura 2000 sites designated by Germany for the protection of those habitat types, approximately half the area of those habitats had been lost.

Secondly, the German authorities systematically failed to undertake regular surveillance of the conservation status of both habitat types inside the designated areas of conservation.

Thirdly, the German authorities systematically failed to regulate the main pressures for both habitat types, early mowing and overfertilisation, by means of legally binding protective measures.

In addition, Germany systematically infringed its obligation under the second subparagraph of Article 4(1) of Directive 92/43 to transmit regularly updated data for both habitat types.

(¹) Council Directive 92/43/EEC of 21 May 1992 on the conservation of natural habitats and of wild fauna and flora (OJ 1992 L 206, p. 7).
