

Action brought on 24 March 2014 — European Commission v Republic of Bulgaria**(Case C-141/14)**

(2014/C 159/24)

*Language of the case: Bulgarian***Parties**

Applicant: European Commission (represented by: E. White, P. Mihaylova, C. Hermes, acting as Agents)

Defendant: Republic of Bulgaria

Form of order sought

- Declare that, by failing to integrate, in their entirety, into the special protection area 'Kaliakra' the areas that are important for the conservation of birds, the Republic of Bulgaria has failed to designate as a special protection area the most suitable territories in number and size for the conservation of biological species under Annex I to Directive 2009/147/EC ⁽¹⁾ and for the protection of regularly occurring migratory species not listed in Annex I in the geographical sea and land area where Directive 2009/147/EC applies. Accordingly, the Republic of Bulgaria has failed to fulfil its obligations under Article 4(1) and (2) of Directive 2009/147/EC;
- declare that, by granting authorisation for Project 'AES Geo Enerdzhi' OOD, Project 'Uindteh' OOD, Project 'Brestiom' OOD, Project 'Disib' OOD, Project 'Eko Enerdzhi' OOD and Project 'Longman Investmant' OOD in the 'Kaliakra' area, which is important for the conservation of birds and which has not been designated as a special protection area, although it should have been so designated, the Republic of Bulgaria has failed to fulfil its obligations under Article 4(4) of Directive 2009/147/EC, as interpreted by the Court of Justice of the European Union in Cases C-96/98 and C-374/98;
- declare that, by granting authorisation for projects in the special protection area 'Kaliakra', in the site of Community importance 'Kompleks Kaliakra' and in the special area of conservation 'Belite Skali' ('Kaliakra uind pauar' AD, 'EVN Enertrag Kavarna' OOD, 'TSID — Atlas' EOOD, 'Vertikal — Petkov i s-ie' OOD, golf and spa resort 'Treysan Klifs Golf end Spa Rezort' OOD), the Republic of Bulgaria has failed to fulfil its obligations under Article 6(2) of Directive 92/43/EEC, ⁽²⁾ as interpreted by the Court of Justice of the European Union in Cases C-117/03 and C-244/05, having failed to take appropriate steps to avoid the deterioration of natural habitats and the habitats of biological species as well as disturbance of the species for which the areas have been designated;
- declare that, owing to the failure to assess in an appropriate manner the cumulative effects of the projects authorised in the 'Kaliakra' area, which is important for the conservation of birds and which has not been designated as a special protection area ('AES Geo Enerdzhi' OOD, 'Uindteh' OOD, 'Brestiom' OOD, 'Disib' OOD, 'Eko Enerdzhi' OOD and 'Longman Investmant' OOD), the Republic of Bulgaria has failed to fulfil its obligations under Article 2(1), in conjunction with Article 4(2) and (3), of Directive 2011/92/EU ⁽³⁾ and Annex III(1)(b) thereto;
- order the Republic of Bulgaria to pay the costs.

Pleas in law and main arguments

The Republic of Bulgaria has not designated as a special protection area so much of the 'Kaliakra' area as is important for the conservation of birds, which constitutes an infringement of the Birds Directive.

By granting authorisation for a series of projects for economic activity in the special protection area 'Kaliakra', in the special area of conservation 'Belite Skali' and in the site of Community importance 'Kompleks Kaliakra', the Republic of Bulgaria has infringed the Birds Directive, the Habitat Directive and the Environmental Impact Assessment Directive, in that it has allowed the destruction or significant deterioration of special, unique habitats of species and the destruction of species, and has failed to take account of the cumulative effects of a large number of projects.

⁽¹⁾ Directive 2009/147/EC of the European Parliament and of the Council of 30 November 2009 on the conservation of wild birds (OJ 2010 L 20, p. 7).

⁽²⁾ 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).

⁽³⁾ Directive 2011/92/EU of the European Parliament and of the Council of 13 December 2011 on the assessment of the effects of certain public and private projects on the environment (OJ 2012 L 26, p. 1).