

4. order the Commission of the European Communities to provide the applicants with the opinion of the Habitats Committee mentioned in recital (15) in the preamble to the contested decision.

— order the Commission to pay the applicants' costs in full, together with statutory interest.

Pleas in law and main arguments

The applicants submit that the decision ⁽¹⁾ is contrary to Community law, in particular Articles 3 and 4 of the Habitats Directive and Annex III thereto, referred to in Article 4. The grounds alleging non-conformity of the decision with Community law are set out in four principal pleas:

- (a) The Habitats Directive does not permit earlier decisions relating to the list of sites of Community importance ('SCI sites') to be annulled by way of new decisions in the manner and on the grounds set out. The procedural rules in the Habitats Directive are also binding on the Commission. Any other interpretation would lead to legal uncertainty in relation to national implementing measures and the legal protection of landowners.
- (b) According to Article 3 of the Habitats Directive, the Natura 2000 network is a coherent European network of protected areas which is intended to guarantee a favourable conservation status as defined in the directive. The coherence of the network is guaranteed and the favourable conservation status achieved by the fact that Article 4 of and Annex III to the directive, relating to the choice of sites, are detailed technical substantive law rules which are binding on both the Member States and the Commission. Areas cannot be selected as SCI sites without following those two stages. Given the favourable conservation status which was designated as a coherent objective, sites in each Member State must be selected in accordance with uniform criteria corresponding to Article 4 of and Annex III to the Habitats Directive.
- (c) Stage 1 in Annex III (the Member State stage) and Stage 2 thereof (the Commission stage) form a whole consisting of acts accompanied by legal effects. The decision relating to sites of Community importance in Stage 2 of the procedure is not in accordance with the Habitats Directive if the proposal in Stage 1 does not satisfy the conditions laid down by the directive.
- (d) When the Republic of Finland was preparing its proposal relating to the boreal region as an SCI site, neither Article 4 of the Habitats Directive nor the provisions relating to Stage 1 in Annex III to the directive were observed. As the Republic of Finland's proposal was accepted in its entirety, and as regards all the sites, by decision of the Commission, the Commission decision relating to the SCI sites is also contrary to the directive on that ground alone.

⁽¹⁾ Commission Decision 2008/24/EC of 12 November 2007 adopting, pursuant to Council Directive 92/43/EEC, a first updated list of sites of Community importance for the Boreal biogeographical region (OJ 2008 L 12, p. 118).

Action brought on 4 April 2008 — Aurelia Finance v OHIM (AURELIA)

(Case T-136/08)

(2008/C 128/76)

Language in which the application was lodged: English

Parties

Applicant: Aurelia Finance SA (Geneva, Switzerland) (represented by M. Elmslie, Solicitor)

Defendant: Office for Harmonisation in the Internal Market (Trade Marks and Designs)

Form of order sought

- Annul the Decision of the First Board of Appeal of 9 January 2008 in case R 1214/2007-1;
- Remit the applicant's application for *restitutio in integrum* to OHIM for reconsideration; and
- order OHIM to pay the costs.

Pleas in law and main arguments

Community trade mark concerned: A word mark consisting of the word AURELIA for various services in class 36 — application No 274 936

Decision of the OHIM: Refusal of the application for *restitutio in integrum*

Decision of the Board of Appeal: Dismissal of the appeal

Pleas in law: Infringement of Article 78 of Council Regulation No 40/94 as the standard of due care required in connection with administrative renewals is lower than that for a party to proceedings before OHIM.

Order of the Court of First Instance of 14 April 2008 — Elektrociepłownia (Zielona Góra) v Commission

(Case T-142/06) ⁽¹⁾

(2008/C 128/77)

Language of the case: English

The President of the Court of First Instance (Sixth Chamber) has ordered that the case be removed from the register.

⁽¹⁾ OJ C 178, 29.7.2006.