

**Action brought on 11 November 2014 — European Commission v Hellenic Republic****(Case C-504/14)**

(2015/C 007/25)

*Language of the case: Greek***Parties***Applicant:* European Commission (represented by: M. Patakia and C Hermes, acting as Agents)*Defendant:* Hellenic Republic**Form of order sought**

The applicant claims that the Court should:

— Declare that the Hellenic Republic has failed to fulfil its obligations under:

- Article 6(2) and (3) of Council Directive 92/43/EEC <sup>(1)</sup> of 21 May 1992 on the conservation of natural habitats and of wild fauna and flora, (a) by failing to take the appropriate measures to avoid the deterioration of natural habitats and the habitats of species, and the disturbance of the species for which a site had been designated, and (b) having permitted (without carrying out any appropriate assessment of the implications, as is laid down in Article 6(3)) activities which are likely to have a significant effect on the site at issue, either individually or in combination with other plans or projects, reducing and destroying the nesting area of the priority species *Caretta caretta*, which is present there, causing disturbance to the species concerned and, ultimately, reducing and destroying the sand dune habitats 2110, 2220 and the priority habitat 2250;
- Article 12(1)(b) and (d) of that directive, by failing to take the requisite measures to establish and implement an effective system of strict protection for the sea turtle *Caretta caretta* (a priority species) in Kyparissia Bay in a way which avoids any disturbance of the species concerned during its breeding period and any activity which can cause deterioration or destruction of its breeding sites.

— order the Hellenic Republic to pay the costs.

**Pleas in law and main arguments**

1. This infringement relates to: (a) the impact of several projects and activities on the Natura 2000 GR2550005 'Thines Kyparissias' site (proposed Site of Community Importance, SCI, from 1 April 1997, and Site of Community Importance, SCI, from 1 September 2006) and, more particularly, on the priority species *Caretta caretta* and the sand dune habitats, including the priority habitat 2250\* Coastal dunes with *Juniperus* spp and (b) failure to take the necessary measures to establish and implement an effective system of strict protection of the sea turtle *Caretta caretta*, in the site in question, in order to avoid both any disturbance of that species during its breeding period and any activity which can cause deterioration or destruction of its breeding sites.
2. In 1998, subsequent to the approval of the competent Ministry, the LIFE-Nature management plan LIFE98NAT/GR/5262 ('Application of Management Plan for *Caretta caretta* in Southern Kyparissia') was initiated. The LIFE management plan culminated in 2002 in the elaboration of a Special Environmental Study (EPM under the Greek legislation) where reference was made to the characteristics of the species and to the need for its effective protection.
3. Following NGO reports and a visit by Commission staff in July 2011 to the site, the Commission initiated the procedure relating to the infringement of the provisions of Directive 92/43/EEC which are set out in the form of order sought in this action.

4. First, the Commission claims that the Hellenic Republic, contrary to the provisions of Article 12 of the directive, failed to ensure:

The establishment of a system of strict protection of the species listed in Annex IV to the directive, in order to prohibit:

- deliberate disturbance, particularly in the breeding period;
- deterioration or destruction of breeding sites or resting places.

5. In particular, there is no full and coherent legislative framework in Greece and there is a failure to implement concrete, specific and effective measures of protection, together with a toleration of activities which not only are likely to cause the deterioration/destruction of the breeding sites but are also likely to disturb the turtle concerned, particularly in the incubation period, the hatching of eggs and in the period when new-born turtles travel to the sea.
6. Further, the Commission claims that the provisions of Article 6(2) and (3) of the directive are infringed in that:
- (a) the deterioration of habitats and significant disturbance of species in designated sites is not avoided. In fact, Greece, by tolerating, contrary to Article 6(2), a series of uncontrolled and/or unregulated activities, has failed in this particular case to take the appropriate measures to ensure the avoidance of such deterioration of habitats and disturbance of species.
  - (b) the identified activities at issue were carried out without the prior completion of the required appropriate assessment of their implications either on an individual basis for each particular project or for the evaluation of their combined effects, whereas Article 6(3) of the directive requires that there should be an appropriate assessment of every plan or project which is not directly concerned with or necessary to the conservation of the habitat but which is likely to have significant effects on it, with regard to the implications for its conservation.

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(<sup>1</sup>) OJ 1992 L 206, p. 7.