

Other parties to the proceedings: European Commission (represented by: E. Gippini Fournier, B. Stromsky and P. Němečková, acting as Agents), SES Astra (represented by: F. González Díaz and V. Romero Algarra, abogados)

Operative part of the judgment

The Court:

1. Dismisses the appeals;
2. Orders Cellnex Telecom SA and Telecom Castilla-La Mancha SA to pay the costs.

⁽¹⁾ OJ C 129, 24.4.2017.

Judgment of the Court (Second Chamber) of 26 April 2018 — European Commission v Republic of Bulgaria

(Case C-97/17) ⁽¹⁾

(Failure of a Member State to fulfil obligations — Protection of nature — Directive 2009/147/EC — Conservation of wild birds — Special Protection Area (SPA) — Classification as SPAs of the most suitable territories in number and size for the conservation of the bird species listed in Annex I to Directive 2009/147 — Important Bird Area (IBA) — IBA Rila — Partial classification of IBA Rila as an SPA)

(2018/C 211/09)

Language of the case: Bulgarian

Parties

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

Defendant: Republic of Bulgaria (represented by: E. Petranova and L. Zaharieva, acting as Agents)

Operative part of the judgment

The Court:

1. Declares that, by failing to include the entire Important Bird Area covering the Rila Mountains as a Special Protection Area, the Republic of Bulgaria did not classify as SPAs the most suitable territories in number and size for the conservation of the species listed in Annex I to Directive 2009/147/EC of the European Parliament and of the Council of 30 November 2009 on wild birds, so that that Member State failed to fulfil its obligations under Article 4(1) of that directive.
2. Orders the Republic of Bulgaria to pay the costs.

⁽¹⁾ OJ C 121, 18.4.2017.

Action brought on 1 February 2018 — European Commission v Hungary

(Case C-66/18)

(2018/C 211/10)

Language of the case: Hungarian

Parties

Applicant: European Commission (represented by: V. Di Bucci, L. Malferrari, B. De Meester and K. Talabér-Ritz, acting as Agents)

Defendant: Hungary

Form of order sought

The Commission claims that the Court of Justice should declare that Hungary has failed to fulfil:

- its obligations arising from Article XVII of the GATS (General Agreement on Trade in Services) by requiring foreign higher education institutions situated outside the EEA to conclude an international agreement as a prerequisite for providing education services, pursuant to Article 76(1)(a) of Law CCIV of 2011, as amended;
- its obligations arising from Article 16 of Directive 2006/123/EC ⁽¹⁾ and, in any event, from Articles 49 TFEU and 56 TFEU as well as from Article XVII of the GATS, by requiring foreign higher education institutions to offer higher education in their country of origin, pursuant to Article 76(1)(b) of Law CCIV of 2011, as amended;
- its obligations arising from Articles 13, 14(3) and 16 of the Charter of Fundamental Rights of the European Union, in relation to the restrictions described above; and that the Court should
- order Hungary to pay the costs.

Pleas in law and main arguments

The legal basis for the provision of higher education services in Hungary is Law CCIV of 2011 on national higher education, Article 76(1)(a) of which provides that a foreign higher education institution may carry out on the territory of Hungary an education activity leading to a degree only if the Hungarian Government and the Government of the State in which the foreign higher education institution is located have agreed to be bound by an international agreement relating to support in principle given to the institution to carry out an activity in Hungary, an agreement that, in the case of a federal State, is based on a previous agreement concluded with the central Government when it does not have competence to agree to be bound by an international agreement.

Furthermore, Article 76(1)(b) of Law CCIV of 2011 provides that foreign higher education institutions which carry out an activity in Hungary not only must be higher education institutions recognised by the State in the country in which they are located, but also must genuinely offer higher education in the country concerned.

On 27 April 2017, the Commission initiated infringement proceedings against Hungary in relation to Law CCIV of 2011, as amended.

As it did not consider the response presented by Hungary to be satisfactory, the Commission, on 14 July 2017, sent to Hungary a reasoned opinion, thereby moving to the next phase of infringement proceedings.

Taking the view that the response to the reasoned opinion was also unsatisfactory, the Commission decided to refer the case to the Court of Justice for a declaration that Hungary has failed to fulfil its obligations arising from Article XVII of the GATS, Article 16 of Directive 2006/123/EC, Articles 49 TFEU and 56 TFEU, and Articles 13, 14(3) and 16 of the Charter of Fundamental Rights of the European Union.

⁽¹⁾ Directive 2006/123/EC of the European Parliament and of the Council of 12 December 2006 on services in the internal market (OJ 2006 L 376, p. 36).

Action brought on 6 February 2018 — European Commission v Hungary**(Case C-78/18)**

(2018/C 211/11)

*Language of the case: Hungarian***Parties**

Applicant: European Commission (represented by: V. Di Bucci, L. Malferrari and K. Talabér-Ritz, acting as Agents)

Defendant: Hungary