

The Commission is therefore of the view that, as a result of the failure to designate special protection areas in sufficient number and size, Romania has failed to fulfil its obligations under Article 4(1) and (2) of Directive 79/409/EEC.

⁽¹⁾ Council Directive 79/409/EEC of 2 April 1979 on the conservation of wild birds (OJ 1979 L 103, p. 1).

Action brought on 17 December 2009 — European Commission v Portuguese Republic

(Case C-525/09)

(2010/C 51/32)

Language of the case: Portuguese

Parties

Applicant: European Commission (represented by: A. Marghelis and G. Braga da Cruz, Agents)

Defendant: Portuguese Republic

Form of order sought

— Declare that, by failing to adopt the laws, regulations and administrative provisions necessary to comply with Directive 2006/21/EC ⁽¹⁾ of the European Parliament and of the Council of 15 March 2006 on the management of waste from extractive industries and amending Directive 2004/35/EC, or, in any event, by failing to communicate those provisions to the Commission, the Portuguese Republic has failed to fulfil its obligations under Article 25 of that directive.

— Order the Portuguese Republic to pay the costs.

Pleas in law and main arguments

The period prescribed for transposing the directive expired on 30 April 2008.

⁽¹⁾ OJ 2006 L 102, p. 15.

Action brought on 17 December 2009 — European Commission v Portuguese Republic

(Case C-526/09)

(2010/C 51/33)

Language of the case: Portuguese

Parties

Applicant: European Commission (represented by: S. Pardo Quintillán and G. Braga da Cruz, Agents)

Defendant: Portuguese Republic

Form of order sought

— Declare that, by permitting the discharge of industrial waste water from the industrial unit 'Estação de Serviço Sobritos', situated in the Matosinhos area, without adequate authorisation, the Portuguese Republic has failed to fulfil its obligations under Article 11(1) and (2) of Council Directive 91/271/EEC of 21 May 1991 concerning urban wastewater treatment. ⁽¹⁾

— Order the Portuguese Republic to pay the costs.

Pleas in law and main arguments

The Portuguese Republic has not to date informed the Commission that the licensing of the industrial unit 'Estação de Serviço Sobritos' has been completed.

⁽¹⁾ OJ 1991 L 135, p. 40.

Action brought on 18 December 2009 — European Commission v Kingdom of Spain

(Case C-529/09)

(2010/C 51/34)

Language of the case: Spanish

Parties

Applicant: European Commission (represented by: L. Flynn and C. Urraca Caviedes, Agents)

Defendant: Kingdom of Spain

Form of order sought

— Declare that the Kingdom of Spain has failed to fulfil its obligations under the fourth paragraph of Article 288 TFEU, and Articles 2 and 3 of Commission Decision 1999/509/EC of 14 October 1998 concerning aid granted by Spain to companies in the Magefesa group and their successors (OJ 1999 L 198, p. 15), by not adopting the measures necessary to comply with that decision in respect of Industrias Domésticas, S.A. (Indosa)

— Order the Kingdom of Spain to pay the costs.

Pleas in law and main arguments

The Kingdom of Spain has failed to adopt, within the prescribed period, the measures necessary to comply with Decision 1999/509/EC in respect of Industrias Domésticas, S.A. (Indosa).

Action brought on 18 December 2009 — European Commission v Portuguese Republic

(Case C-531/09)

(2010/C 51/35)

*Language of the case: Portuguese***Parties**

Applicant: European Commission (represented by: N. Yerrell and M. Teles Romão, Agents)

Defendant: Portuguese Republic

Form of order sought

— Declare that, by failing to adopt the laws, regulations and administrative provisions necessary to comply with Directive 2006/38/EC ⁽¹⁾ of the European Parliament and of the Council of 17 May 2006 amending Directive 1999/62/EC on the charging of heavy goods vehicles for the use of certain infrastructures and, in any event, by failing to communicate them to the Commission, the Portuguese Republic has failed to fulfil its obligations under that directive.

— Order the Portuguese Republic to pay the costs.

Pleas in law and main arguments

The period prescribed for transposing the directive expired on 10 June 2008.

⁽¹⁾ OJ 2006 L 157, p. 8.

Appeal brought on 18 December 2009 by Vladimir Ivanov against the order of the Court of First Instance (Third Chamber) delivered on 30 September 2009 in Case T-166/08 Ivanov v Commission

(Case C-532/09 P)

(2010/C 51/36)

*Language of the case: French***Parties**

Appellant: Vladimir Ivanov (represented by: R. Rollinger, avocat)

Other party to the proceedings: European Commission

Form of order sought

— declare the appeal admissible;

— declare the appeal well founded;

— annul the order of the Court of First Instance of 30 September 2009;

— decide the case in accordance with the application initiating the proceedings;

— order the opposing party to pay the costs of both instances.

Pleas in law and main arguments

The appellant relies on three grounds in support of his appeal:

By his first ground, which is made up of two parts, the appellant claims that the Court of First Instance should not have used abuse of process to justify the inadmissibility of his action for non-contractual liability, since the very limited scope of abuse of process extends only to exceptional cases in which the object of the action for damages is payment of a sum identical to that which the appellant would have obtained if he had succeeded in an action for annulment. In the present case, the action for damages brought by the appellant is entirely independent, the appellant wishing to render the Commission non-contractually liable for the conduct adopted in his regard, rather than to achieve a financial situation identical to that which he would have had in the event of the annulment of the Commission decisions.