

- by failing to adopt and apply the appropriate conservation measures and a protection system to prevent the deterioration of habitats and significant disruption to species, ensuring the legal protection of the special areas of conservation corresponding to the sites referred to in Decision 2002/11/EC situated in Spanish territory, in accordance with Article 6(1) and (2) of Directive 92/43/EEC,

the Kingdom of Spain has failed to fulfil its obligations under Article 4(4) and Article 6(1) and (2) of Directive 92/43/EEC;

- order the Kingdom of Spain to pay the costs.

Pleas in law and main arguments

In so far as concerns the special areas of conservation corresponding to the sites of Community importance for the Macaronesian biogeographical region in its territory identified by Decision 2002/11/EC, the Commission considers that the Kingdom of Spain has failed to:

- satisfy the requirement to establish conservation priorities in accordance with Article 4(4) of the directive, and
- satisfy the requirement to adopt and apply the appropriate conservation measures and a protection system to prevent the deterioration of habitats and significant disruption to species, ensuring the legal protection of those special areas of conservation, in accordance with Article 6(1) and (2) of the directive.

(¹) Commission Decision of 28 December 2001 adopting the list of sites of Community importance for the Macaronesian biogeographical region, pursuant to Council Directive 92/43/EEC (OJ 2002 L 5, p. 16).

(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).

Reference for a preliminary ruling from the Rechtbank Breda (Netherlands) lodged on 17 February 2010 — VAV Autovermietung GmbH v Inspector of the Revenue Department, Customs-South, Rosendaal office

(Case C-91/10)

(2010/C 113/41)

Language of the case: Dutch

Referring court

Rechtbank Breda

Parties to the main proceedings

Applicant: VAV Autovermietung GmbH

Defendant: Inspector of the Revenue Department, Customs-South, Rosendaal office

Questions referred

1. Does Community law, in particular the principle of the freedom to provide services, as laid down in Articles 49 to 55 of the EC Treaty (now Articles 56 to 62 of the Treaty on the Functioning of the European Union), preclude a national legislative provision under which a person resident or established in the Netherlands who uses in the Netherlands a car registered and leased in another Member State is required, upon the commencement of use with that vehicle of the road network in the Netherlands, to pay a tax, whereby initially the full amount of tax is claimed and, subsequently, after the vehicle ceases to use the Netherlands road network, there is a refund of the excess amount of tax, without interest, as a result of which the amount owed and paid corresponds on balance to the period of use in the Netherlands?
2. If such legislation must be regarded as a restriction on the principle of freedom to provide services, as laid down in Articles 49 to 55 of the EC Treaty (now Articles 56 to 62 of the Treaty on the Functioning of the European Union), is a justificatory ground therefor to be found in the equal treatment of all cars present in the Netherlands, together with the attendant and consequent prevention of misuse and/or prevention of reverse discrimination of both national lessors and their customers, since the tax has to be paid in full even in the case of domestic leasing?