Defendant: Republic of Bulgaria

Form of order sought

The applicant claims that the Court should:

1. Declare that, in failing to classify the entirety of the Rila important bird area as a special protection area, the Republic of Bulgaria has failed to classify the most suitable territories in number and size as special protection areas for the conservation of the species of birds listed in Annex I to Directive 2009/147/EC ([1]) on the conservation of wild birds, and accordingly has failed to fulfil its obligations under Article 4(1) of that directive;

2. Order the Republic of Bulgaria to pay the costs.

Pleas in law and main arguments

The case concerns the conservation of many endangered species of birds listed in Annex 1 to the Birds Directive and their habitats in the territory of the Rila mountain range in the south-west of Bulgaria. The Rila important bird area is one of the most significant places in both Bulgaria and the European Union for the conservation of over 130 species of nesting birds. 41 species are of European conservation concern, of which one is endangered worldwide.

Under Article 4(1) of the Birds Directive, the species listed in Annex I must be the subject of special conservation measures concerning their habitat in order to ensure their survival and reproduction in their area of distribution. Furthermore, Article 4(1) of the Birds Directive provides that the Member States must classify in particular the most suitable territories in number and size as special protection areas for the conservation of those species.

According to the Commission, the Republic of Bulgaria should have classified the Rila important bird area as a special protection area in its entirety, but, to date, has not done so. The Commission provides evidence of the ornithological importance of the unclassified territories in the Rila important bird area.

([1]) Directive 2009/147/EC of the European Parliament and of the Council of 30 November 2009 on the conservation of wild birds (OJ 2010 L 20, p. 7).

Appeal brought on 24 February 2017 by Koninklijke Philips NV, Philips France against the judgment of the General Court (Fifth Chamber) delivered on 15 December 2016 in Case T-762/14: Koninklijke Philips NV, Philips France v Commission

(Case C-98/17 P)

(2017/C 121/26)

Language of the case: English

Parties

Appellants: Koninklijke Philips NV, Philips France (represented by: J.K. de Pree, advocaat, T.M. Snoep, advocaat, A.M. ter Haar, advocaat)

Other party to the proceedings: European Commission

Form of order sought

The appellants claim that the Court should:

— set aside the judgment under appeal;

— annul the decision in so far as it concerns Koninklijke Philips NV and Philips France; and/or

— annul or reduce the fines imposed on Koninklijke Philips NV and Philips France; and

— order the Commission to pay the costs in first instance and on appeal.

Pleas in law and main arguments

In support of the action, the applicants rely on the following main pleas in law and arguments:

— The General Court erred in law by applying a wrong legal standard in establishing a restriction of competition by object.

— In establishing a restriction of competition by object, the General Court erred in law by exceeding its unlimited jurisdiction.

— In establishing a restriction of competition by object, the General Court erred in law by breaching its obligation to state reasons.

— The General Court applied a clearly and manifestly incorrect assessment of the existing evidence in the file, resulting in a distortion of the clear sense of the evidence, in finding that the alleged common object finds support in other evidence.

— The General Court erred in law by applying the wrong legal standard and by distorting the clear sense of the evidence by considering that Philips participated in a single and continuous infringement as a whole and, as such, could be held liable for it.

— The General Court erred in law by misapplying the principle of proportionality and by failing to exercise its unlimited jurisdiction by rejecting Philips' plea that the gravity factor applied was disproportionate to the infringement and Philips' role therein.

Action brought on 3 March 2017 — European Commission v Kingdom of Belgium

(Case C-110/17)

(2017/C 121/27)

Language of the case: French

Parties

Applicant: European Commission (represented by: W. Roels and N. Gossement, Agents, acting as Agents)

Defendant: Kingdom of Belgium

Form of order sought

The Commission claims that the Court should:

— declare that, by retaining provisions under which, in respect of the estimation of income relating to unrented buildings or buildings rented either to natural persons who do not use them for professional purposes, or to legal persons who make such buildings available to natural persons for private purposes, the tax base is calculated on the basis of the cadastral value so far as property on national territory is concerned, and on the actual rental value so far as buildings located abroad are concerned, the Kingdom of Belgium has failed to fulfil its obligations under Article 63 of the Treaty on the Functioning of the European Union and Article 40 of the Agreement on the European Economic Area, and

— order Kingdom of Belgium to pay the costs.

Pleas in law and main arguments

The Commission takes the view that Belgium has failed to fulfil its obligations under Articles 63 TFEU and Article 40 of the Agreement on the EEA.

While noting the attempts made by Belgium to bring its failure to fulfil obligations to an end, the Commission takes the view that the existence of the failure to fulfil obligations on 26 March 2012, the date when the period of two months laid down in the reasoned opinion expired, has been proven.
