

The applicant claims that the Court should:

1. Declare that, by failing to classify territories of a sufficient number and size as special protection areas for birds in order to provide protection for all the species of birds listed in Annex I to Council Directive 79/409/EEC⁽¹⁾ of 2 April 1979 on the conservation of wild birds and for the migratory species not mentioned in the said Annex I, the Kingdom of Spain has failed to fulfil its obligations under that directive;
2. Order the Kingdom of Spain to pay the costs.

Pleas in law and main arguments

Article 4(1) and (2) of Directive 79/409/EC places on Member States an obligation to classify territories as special protection areas for the conservation of birds, to ensure effective protection of the species listed in Annex I to that directive and of regularly occurring migratory species, in order to guarantee their survival and reproduction in their area of distribution. That obligation relates, as a minimum, to all the most suitable territories, as regards their number and size, for the conservation of the species concerned, having regard to their protection requirements. What constitutes a sufficient number of special protection areas is determined by reference to the objective pursued.

The Member States enjoy a degree of latitude in determining which territories best meet the requirements listed in Article 4 of the directive, but they must base their evaluations solely on scientific ornithological criteria. In the case of Spain, the inventory of important bird areas (IBA) drawn up by the Sociedad Española de Ornitología (Spanish Ornithological Society) in 1998 (SEO/Birdlife Inventory 98) constitutes the best documented and most accurate basis available for defining the most suitable territories for conservation and, in particular, for the survival and reproduction of important species. That inventory is based on balanced ornithological criteria, making it possible to indicate which places are most suitable for guaranteeing conservation of all the species mentioned in Annex I and other migratory species, and identifies the priority areas for the conservation of birds in Spain.

From a comparison of the data of the SEO/Birdlife Inventory 98 with the special protection areas designated by the Kingdom of Spain, for Spanish territory as a whole, and from a more detailed analysis by the Autonomous Communities, it can be inferred that the number and size of the areas classified as special protection areas fall short of what scientific evidence indicates as the areas most suitable for providing adequate protection of the birds covered by Article 4 of the directive.

⁽¹⁾ OJ L 103 of 25.4.1979, p. 1.

Reference for a preliminary ruling by the Tribunale di Cagliari by order of that court of 14 May 2004 in the case of Enirisorse SpA and Sotacarbo SpA

(Case C-237/04)

(2004/C 201/22)

Reference has been made to the Court of Justice of the European Communities by order of the Tribunale di Cagliari (Cagliari District Court) of 14 May 2004, received at the Court Registry on 7 June 2004, for a preliminary ruling in the case of Enirisorse SpA and Sotacarbo SpA on the following questions:

- (a) Does Article 33 of Law [273/02] implement an incompatible State aid in favour of Sotacarbo SpA., within the meaning of Article 87 of the Treaty and does it do so, moreover, unlawfully in so far as the Commission was not informed of that aid, within the meaning of Article 88(3) EC?
- (b) Does Article 33 of Law [273/02] conflict with Articles 43, 44, 48 and 49 et seq. EC, concerning freedom of establishment and the free movement of services?

Action brought on 14 June 2004 by the Commission of the European Communities against the Hellenic Republic

(Case C-250/04)

(2004/C 201/23)

An action against the Hellenic Republic was brought before the Court of Justice of the European Communities on 14 June 2004 by the Commission of the European Communities, represented by Georgios Zavvos and Michael Shotter, of its Legal Service.

The Commission claims that the Court should:

- declare that, by failing to adopt, or in any event to notify to the Commission, the laws, regulations and administrative provisions necessary to comply with Directive 2002/19/EC⁽¹⁾ of the European Parliament and of the Council of 7 March 2002 on access to, and interconnection of, electronic communications networks and associated facilities (Access Directive), the Hellenic Republic has failed to fulfil its obligations under that directive;
- order the Hellenic Republic to pay the costs.

Pleas in law and main arguments

The period for transposition of the directive into national law expired on 24 July 2003.

(¹) OJ No L 108, 24.4.2002, p. 7.

Action brought on 14 June 2004 by the Commission of the European Communities against the Hellenic Republic

(Case C-251/04)

(2004/C 201/24)

An action against the Hellenic Republic was brought before the Court of Justice of the European Communities on 14 June 2004 by the Commission of the European Communities, represented by Georgios Zavvos and Knut Simonsson, of its Legal Service.

The Commission claims that the Court should:

- declare that, by allowing only vessels flying the Greek flag to provide towage services on the high seas, the Hellenic Republic has failed to fulfil its obligations under Article 1 of Council Regulation (EEC) No 3577/92 (¹) of 7 December 1992 applying the principle of freedom to provide services to maritime transport within Member States (maritime cabotage);
- order the Hellenic Republic to pay the costs.

Pleas in law and main arguments

The Greek legislative provisions in force are contrary to Article 1 of Regulation (EEC) No 3577/92.

(¹) OJ No L 364, 12.12.1992, p. 7.

Action brought on 14 June 2004 by the Commission of the European Communities against the Hellenic Republic

(Case C-252/04)

(2004/C 201/25)

An action against the Hellenic Republic was brought before the Court of Justice of the European Communities on 14 June 2004 by the Commission of the European Communities, represented by Georgios Zavvos and Michael Shotter, of its Legal Service.

The Commission claims that the Court should:

- declare that, by failing to adopt, and in any event to notify to the Commission, the laws, regulations and administrative provisions necessary to comply with Directive 2002/22/EC (¹) of the European Parliament and of the Council of 7 March 2002 on universal service and users' rights relating to electronic communications networks and services (Universal Service Directive), the Hellenic Republic has failed to fulfil its obligations under that directive;
- order the Hellenic Republic to pay the costs.

Pleas in law and main arguments

The period for transposition of the directive into national law expired on 24 July 2003.

(¹) OJ No L 108, 24.4.2002, p. 51.

Action brought on 14 June 2004 by the Commission of the European Communities against the Hellenic Republic

(Case C-253/04)

(2004/C 201/26)

An action against the Hellenic Republic was brought before the Court of Justice of the European Communities on 14 June 2004 by the Commission of the European Communities, represented by Georgios Zavvos and Michael Shotter, of its Legal Service.

The Commission claims that the Court should:

- declare that, by failing to adopt, and in any event to notify to the Commission, the laws, regulations and administrative provisions necessary to comply with Directive 2002/21/EC (¹) of the European Parliament and of the Council of 7 March 2002 on a common regulatory framework for electronic communications networks and services (Framework Directive), the Hellenic Republic has failed to fulfil its obligations under that directive;
- order the Hellenic Republic to pay the costs.

Pleas in law and main arguments

The period for transposition of the directive into national law expired on 24 July 2003.

(¹) OJ No L 108, 24.4.2002, p. 33.