

Action brought on 30 July 2004 by the Commission of the European Communities against the Hellenic Republic

(Case C-334/04)

(2004/C 239/14)

An action against the Hellenic Republic was brought before the Court of Justice of the European Communities on 30 July 2004 by the Commission of the European Communities, represented by Maria Patakia and Michel van Beek, of its Legal Service.

The Commission claims that the Court should declare that:

by classifying as special protection areas (SPAs) territories the number and overall size of which fall clearly short of the number and overall size of territories fulfilling the preconditions for classification as special protection areas within the meaning of Article 4 of Council Directive 79/409/EEC of 2 April 1979 on the conservation of wild birds,

by designating SPAs of a size clearly smaller than the corresponding IBA 2000 territories which fulfil the preconditions for classification as SPAs,

by failing to designate SPAs for many species of birds included in Annex I to Directive 79/409 or by having classified as SPAs areas where the species in question are insufficiently represented,

by failing to designate SPAs for many migratory species or by having classified as SPAs areas where the species at issue are insufficiently represented,

the Hellenic Republic has failed to fulfil its obligations under Article 4(1) and (2) of Directive 79/409.

Pleas in law and main arguments

In accordance with settled case-law of the Court of Justice, Article 4(1) and (2) of Directive 79/409 requires the Member States to lay down a special regime for SPAs that ensures, principally, the survival and reproduction of the species mentioned in Annex I to that directive.

In accordance with the case-law, but also in the Commission's submission, the IBA (Important Bird Areas) inventory is considered to be an authoritative scientific basis of reference.

In accordance with that inventory, 186 areas in Greece must be classified as SPAs.

By the date on which the application was lodged Greece had designated only 151 SPAs, and they are smaller in extent than envisaged by the IBA 2000 inventory.

The Commission concludes therefrom that those SPAs have not been designated on the basis of ornithological criteria as required by Article 4 of the directive.

Greek national territory is of great ornithological importance for many of the species of wild birds mentioned in Annex I to the directive, including species under threat worldwide. Those species are not sufficiently covered by the existing SPAs in Greece.

Action brought on 30 July 2004 by the Commission of the European Communities against the Republic of Austria

(Case C-335/04)

(2004/C 239/15)

An action against the Republic of Austria was brought before the Court of Justice of the European Communities on 30 July 2004 by the Commission of the European Communities, represented by Denis Martin, of its legal service and Horstpeter Kreppel, Judge of the Arbeitsgericht (Labour Court) seconded to the Commission's legal service as part of an exchange programme with national civil servants, with an address for service in Luxembourg.

The applicant claims that the Court should:

1. declare that, by failing to adopt the laws, regulations and administrative provisions necessary fully to comply with Council Directive 2000/43/EC of 29 June 2000 implementing the principle of equal treatment between persons irrespective of racial or ethnic origin⁽¹⁾, or to notify the Commission of any such provisions, the Republic of Austria has failed to fulfil its obligations under that directive;
2. order the Republic of Austria to pay the costs of the proceedings.

Pleas in law and main arguments:

The period for transposition of Directive 2000/43/EC expired on 19 July 2003.

⁽¹⁾ OJ L 180, 19.7.2000, p. 22.