

Action brought on 4 December 2006 — Complejo Agrícola v Commission

(Case T-345/06)

(2007/C 20/25)

Language of the case: Spanish

affected by the SCI 'Acebuchales de la Campiña sur de Cádiz' which are lacking of environmental value;

- the applicant did not have the opportunity to participate in the procedure for the declaration of 'Acebuchales de la Campiña sur de Cádiz' as a SCI, which amounts to an infringement of the principles of the right to be heard and of legal certainty.

(¹) OJ L 259, 21.9.2006, p. 1.

Parties

Applicant: Complejo Agrícola (Madrid, Spain) (represented by: D. A. Menéndez Menéndez and Da. G. Yanguas Montero)

Defendant: Commission of the European Communities

Form of order sought

- Grant the present application;
- Admit and examine the documentary evidence requested;
- Annul in part Article 1 in connection with Annex 1 of the decision of the European Commission of 19 July 2006, in so far as it concerns the declaration of Acebuchales as a SCI, and restore fully the exercise of the Complejo Agrícola's ownership rights over that part of the farm which does not meet the environmental values required to be declared a SCI;
- Order the Commission to pay the costs incurred by Complejo Agrícola.

Pleas in law and main arguments

This action is brought against the Commission decision of 19 July 2006 adopting, pursuant to Council Directive 92/43/EEC, the list of sites of Community importance for the Mediterranean biogeographical region, (¹) in so far as it declares as a site of Community importance (SCI) ES6120015 'Acebuchales de la Campiña sur de Cádiz' given that the applicant is the owner of a farm covered by that SCI.

In support of its claims, the applicant submits that:

- the Commission has exceeded its powers in designating as a SCI 'Acebuchales de la Campiña sur de Cádiz', which affects the applicant's farm, by erring in its application of the criteria laid down in Annexes I, II and III to Directive 92/43/EEC. In addition, the Commission's misapplication of the criteria laid down in Annex III to Directive 92/43/EEC has led to the designation as a SCI area of a large part of the land belonging to the applicant which is lacking in environmental value, thereby constituting a breach of the principles of proportionality and lawfulness;
- the designation has led to an unjustified and disproportionate limitation of the powers inherent in the applicant's ownership rights in connection with areas of the farm

Action brought on 6 December 2006 — IMS v Commission

(Case T-346/06)

(2007/C 20/26)

*Language of the case: Italian***Parties**

Applicant: IMS Industria Schio Srl (Schio, Italy) (represented by: F. Colonna and T.E. Romolotti, lawyers)

Defendant: Commission of the European Communities

Form of order sought

- annulment of the Commission's opinion C(2006) 3914 of 6 December 2006, and a declaration of the applicant's right to compensation for the damage suffered thereby
- an order that the defendant should pay the costs in accordance with Article 87 et seq. of the Rules of Procedure.

Pleas in law and main arguments

This action challenges the Commission's opinion C(2006) 3914 of 6 December 2006 concerning a prohibition measure adopted by the French authorities relating to certain IMS brand mechanical presses.

It is to be borne in mind in this connection that, as a result of the adoption by the French Republic of measures relating to mechanical presses manufactured by the applicant IMS, the Commission, in accordance with Article 7(2) of Directive 98/37/EC, examined the justification for those measures, issuing at the end of the investigation the opinion that the measures adopted by the French authorities were justified.