

Re:

Failure of a Member State to fulfil obligations — Incomplete and incorrect transposition of Council Directive 79/409/EEC of 2 April 1979 on the conservation of wild birds (OJ 1979 L 103, p. 1)

Operative part of the judgment

The Court:

1. Declares that, by failing to transpose correctly

- Article 1(1) and (2) of Council Directive 79/409/EEC of 2 April 1979 on the conservation of wild birds, in Burgenland, Carinthia, Lower Austria, Upper Austria and Styria;
 - Article 5 of Directive 79/409 in Burgenland, Carinthia, Lower Austria, Upper Austria and Styria;
 - Article 6(1) of Directive 79/409 in Upper Austria;
 - Article 7(1) of Directive 79/409 in Carinthia, Lower Austria and Upper Austria;
 - Article 7(4) of Directive 79/409 in the following provinces and regarding the following species:
 - in Carinthia as regards the capercaillie, black grouse, common coot, woodcock, wood pigeon and collared dove,
 - in Lower Austria as regards the wood pigeon, capercaillie, black grouse and woodcock,
 - in Upper Austria as regards the capercaillie, black grouse and woodcock,
 - in the Province of Salzburg as regards the capercaillie, black grouse and woodcock,
 - in Styria as regards the capercaillie, black grouse and woodcock,
 - in Tyrol as regards the capercaillie and black grouse,
 - in Vorarlberg as regards the black grouse, and
 - in the Province of Vienna as regards the woodcock;
 - Article 8 of Directive 79/409 in Lower Austria;
 - Article 9(1) and (2) of Directive 79/409 in Burgenland, Lower Austria as regards Paragraph 20(4) of the Law of Lower Austria on Nature Protection (Niederösterreichisches Naturschutzgesetz), Upper Austria, the Province of Salzburg, Tyrol and Styria;
 - Article 11 of Directive 79/409 in Lower Austria,
- the Republic of Austria has failed to fulfil its obligations under Article 10 EC, Article 249 EC and Article 18 of Directive 79/409;

2. Dismisses the action as to the remainder;

3. Orders the Republic of Austria to pay the costs.

(¹) OJ C 45, 19.2.2005.

Judgment of the Court (Grand Chamber) of 18 July 2007 (reference for a preliminary ruling from the Consiglio di Stato, Italy) — Ministero dell'Industria, del Commercio e dell'Artigianato v Lucchini SpA, formerly Lucchini Siderurgica SpA

(Case C-119/05) (¹)

(State Aid — ECSC — Steel industry — Aid declared incompatible with the common market — Recovery — Whether a judgment of a national court has the authority of res judicata)

(2007/C 211/04)

Language of the case: Italian

Referring court

Consiglio di Stato

Parties to the main proceedings

Appellant: Ministero dell'Industria, del Commercio e dell'Artigianato

Respondent: Lucchini SpA, formerly Lucchini Siderurgica SpA

Re:

Reference for a preliminary ruling — Consiglio di Stato — Recovery of aid declared incompatible with the common market and contrary to Commission Decision No 3484/85/ECSC of 27 November 1985 establishing Community rules for aid to the steel industry (OJ 1985 L 340, p. 1) — Obligation on the State to recover the aid notwithstanding a final civil judgment to the contrary

Operative part of the judgment

Community law precludes the application of a provision of national law, such as Article 2909 of the Italian Codice Civile (Civil Code), which seeks to lay down the principle of res judicata in so far as the application of that provision prevents the recovery of State aid granted in breach of Community law which has been found to be incompatible with the common market in a decision of the Commission of the European Communities which has become final.

(¹) OJ C 132, 28.5.2005.