

Judgment of the Court (Fourth Chamber) of 20 September 2007 — Commission of the European Communities v Italian Republic

(Case C-304/05) ⁽¹⁾

(Failure of a Member State to fulfil obligations — Directive 92/43/EEC — Conservation of natural habitats and of wild fauna and flora — Directive 79/409/EEC — Conservation of wild birds — Assessment of the environmental impact of works to modify ski runs)

(2007/C 269/13)

Language of the case: Italian

Parties

Applicant: Commission of the European Communities (represented by: M. van Beek and D. Recchia, agents)

Defendant: Italian Republic (represented by: I.M. Braguglia and G. Fiengo, agents)

Re:

Failure of a Member State to fulfil obligations — Infringement of Article 6(2) to (4) in conjunction with Article 7 of Council Directive 92/43/EEC of 21 May 1992 on the conservation of natural habitats and of wild fauna and flora (OJ 1992 L 206, p. 7) — Infringement of Article 4(1) and (2) of Council Directive 79/409/EEC of 2 April 1979 on the conservation of wild birds (OJ 1979 L 203, p. 1) — Extension of the Santa Caterina Valfurva ski area in the Stelvio National Park (Special Protection Area IT 2040044) without any prior environmental impact assessment being carried out — Failure to take measures to avoid disturbing and damaging the habitats of species for which the special protection area was designated.

Operative part of the judgment

The Court:

1. Declares that:

- by authorising measures likely to have a significant impact on Special Protection Area IT 2040044, Parco Nazionale dello Stelvio, without making them subject to an appropriate assessment of their implications in the light of the area's conservation objectives;
- by authorising such measures, without complying with the provisions which allow a project to be carried out, in spite of a negative assessment of the implications and in the absence of alternative solutions, only for imperative reasons of overriding public interest and then only after adopting and communicating to the Commission of the European Communities all compensatory measures necessary to ensure that the overall coherence of Natura 2000 is protected; and
- by failing to adopt measures to avoid the deterioration of natural habitats and habitats of species and the disturbance of

species for which SPA IT 2040044, Parco Nazionale dello Stelvio, was designated,

the Italian Republic has failed to fulfil its obligations under Article 6(2) to (4) of Council Directive 92/43/EEC of 21 May 1992 on the conservation of natural habitats and of wild fauna and flora, in conjunction with Article 7 of that directive, and under Article 4(1) and (2) of Council Directive 79/409/EEC of 2 April 1979 on the conservation of wild birds;

2. Dismisses the remainder of the action;

3. Orders the Italian Republic to pay the costs.

⁽¹⁾ OJ C 299, 17.9.2005.

Judgment of the Court (Second Chamber) of 13 September 2007 (reference for a preliminary ruling from the Juzgado de lo Social de San Sebastián, Spain) — Yolanda Del Cerro Alonso v Osakidetza (Servicio Vasco de Salud)

(Case C-307/05) ⁽¹⁾

(Directive 1999/70/EC — Clause 4 of the framework agreement on fixed-term work — Principle of non-discrimination — Concept of 'employment conditions' — Length-of-service allowance — Inclusion — Objective grounds justifying a difference in treatment — None)

(2007/C 269/14)

Language of the case: Spanish

Referring court

Juzgado de lo Social de San Sebastian

Parties to the main proceedings

Applicant: Yolanda Del Cerro Alonso

Defendant: Osakidetza (Servicio Vasco de Salud)

Re:

Reference for a preliminary ruling — Juzgado de lo Social San Sebastian — Interpretation of Council Directive 1999/70/EC of 28 June 1999 concerning the framework agreement on fixed-term work concluded by ETUC, UNICE and CEEP (OJ 1999 L 175, p. 43) — Whether working conditions include financial conditions — Length of service allowance — Non-payment due to agreements between the staff trade union and the administration — Adequate and objective reasons