

Operative part

1. The appeal is dismissed.
2. Longevity Health Products, Inc. is ordered to bear its own costs.

Judgment of the Court (Fourth Chamber) of 22 September 2011 — Commission v Spain

(Case C-90/10)

(Failure of a Member State to fulfil obligations — ‘Habitats’ directive — Conservation of natural habitats — Wild fauna and flora — Articles 4(4) and 6(1) and (2) — Establishment of priorities for special areas of conservation and of adequate protection thereof — Failure to ensure adequate legal protection of the special areas of conservation in the Canary Islands)

1. *Actions for failure to fulfil obligations — Examination of the merits by the Court — Situation to be taken into consideration — Situation on expiry of the period laid down in the reasoned opinion (Art. 226 EC) (see para. 25)*
2. *Environment — Conservation of natural habitats and of wild fauna and flora — Directive 92/43 — Special areas of conservation — Obligations of the Member States — Establishing of priorities — Failure to accomplish that by means of an order approving the corresponding management instruments — Failure to adopt the measures necessary in order to prevent the deterioration of natural habitats and the significant disturbance of species — Failure to fulfil obligations (Council Directive 92/43, Arts 4(4) and 6(1) and (2)) (see paras 37-38, 48-49, 53-54, 62-64, operative part)*

3. *Actions for failure to fulfil obligations — Proof of failure — Burden of proof on the Commission — Presumptions — Not permissible (Art. 226 CE) (see para. 47)*

Re:

Failure of a Member State to fulfil obligations — Infringement of Article 4(4) and Article 6(1) and (2) 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) — Sites of Community importance — Conservation measures — Macaronesian biogeographical region.

Operative part

The Court:

1. Declares that,
 - by failing to establish, in accordance with Article 4(4) of Council Directive 92/43/EEC of 21 May 1992 on the conservation of natural habitats and of wild fauna and flora, conservation priorities in relation to the special areas of conservation corresponding to the sites of Community importance for the Macaronesian biogeographical region within Spanish territory and identified by Commission Decision 2002/11/EC of 28 December 2001 adopting the list of sites of Community importance for the Macaronesian biogeographical region, pursuant to Council Directive 92/43, and
 - by failing to adopt and apply, in accordance with Article 6(1) and (2) of Directive 92/43, the appropriate conservation measures and a protection system to prevent the deterioration of habitats and significant disturbance of species, by ensuring the legal protection of the special areas of conservation covering the sites referred to in Decision 2002/11 situated in Spanish territory,

the Kingdom of Spain has failed to fulfil its obligations under Article 4(4) and Article 6(1) and (2) of Directive 92/43;

2. Orders the Kingdom of Spain to pay the costs;
3. Orders the Republic of Finland to bear its own costs.

**Order of the Court (Fifth Chamber) of 22 September 2011 —
Pagnoul v État belge**

(Case C-314/10)

(Articles 92(1), 103(1) and the first subparagraph of Article 104(3) of the Rules of Procedure — Reference for a preliminary ruling — Examination of compatibility of national rule both with European Union law and with national Constitution — National legislation giving priority to a preliminary procedure reviewing constitutionality — Charter of Fundamental Rights of the European Union — Necessity of a connection with Union law — Manifest lack of jurisdiction of the Court of Justice)

1. *Questions referred for a preliminary ruling — Reference to the Court — Jurisdiction of the national courts — National legislation giving priority to a preliminary procedure reviewing constitutionality — Not permissible — Condition (Art. 267 TFEU) (see para. 21)*
2. *Preliminary rulings — Jurisdiction of the Court — Limits — Request for interpretation of the Charter of Fundamental Rights of the European Union — National decision not indicating any connection with the law of the Union — Lack of jurisdiction of the Court (Art. 267 TFEU; Charter of Fundamental Rights of the European Union, Arts 17, 47 and 51(1)) (see paras 22-25)*