

- In respect of the evidence, in addition to the evidence in the administrative proceedings, the documents accompanying the present application be held to have been produced, that is documents numbers 1 to 4, as specified in the list of documents annexed to the application.

Plea in law

The pleas and main arguments are those relied on in Case T-548/15.

Action brought on 25 September 2015 — Federcaccia Toscana and Others v Commission

(Case T-562/15)

(2015/C 381/64)

Language of the case: Italian

Parties

Applicants: Federcaccia Toscana (Florence, Italy), Moreno Periccioli (Volterra, Italy), Arcicaccia Toscana (Florence, Italy), Fabio Lupi (Cascina, Italy), Associazione dei Migratoristi Italiani per la conservazione dell'ambiente naturale (ANUU) — TOSCANA (Cerreto Guidi, Italy), Franco Bindi (Cerreto Guidi, Italy) (represented by: A. Bruni, lawyer)

Defendant: European Commission

Form of order sought

The applicants claim that the Court should:

- declare that the European Commission has intentionally or negligently failed to examine the preliminary Key Concepts data acquired from Italy relating to the beginning of the pre-mating migration of woodcocks, song thrushes and fieldfares as compared with the same data acquired from France thereby evading moreover the obligation to produce resulting transnational data relating to those three migratory species in geographically and climatically homogenous areas;
- declare that the European Commission has intentionally or negligently failed to update the Italian Key Concepts data relating to the beginning of the pre-mating migration of woodcocks, song thrushes and fieldfares, adjusting and aligning them to the French data found to be correct and legitimate, and recognising that the beginning of the pre-mating migration of those three species takes place in the second period of ten days in February also in Italy;
- declare that the European Commission, in the absence of valid and correct conditions, sought the introduction in Italy, and in particular in Tuscany, of unjustified limitations on the hunting of woodcocks, song thrushes and fieldfares as compared to that consented to in France and in particular in Corsica, bringing forward to 20 January in Tuscany the end of the hunt for those three migrating species;
- declare unlawful, on the grounds of unequal treatment between Member States and/or Regions of the Member States and also lack of valid conditions, the procedure EU PILOT 6955/14/ENVI brought by the European Commission exclusively against the Italian State since it did not bring an identical and concurrent action against France and did not carry out any preliminary investigation aimed at acquiring corresponding elements from which it can be concluded that the effective beginning of the pre-mating migration of woodcocks, song thrushes and fieldfares is to be deferred by one month (20 February) in Corsica compared to the beginning of the same pre-mating migration in Tuscany (20 January);

- declare unlawful the European Commission's initial and continued inaction in respect of the applicants' warning letter of 29 May 2015 by which the applicants assert and declare at the same time that the European Commission's response in the letter No ENV.D.2/MC-GM/vf/ARES (2015) 3758354 of 9 September 2015 was elusive;
- direct the European Commission to adjust the Italian Key Concepts data relating to the beginning of the pre-mating migration of woodcocks, song thrushes and fieldfares in line with the Key Concepts data from France, thereby recognising that it takes place in the second period of ten days in February;
- in any event, direct the European Commission to adjust the Italian Key Concepts data relating to the beginning of the pre-mating migration in Tuscany of woodcocks, song thrushes and fieldfares in line with the French Key Concepts data relating to Corsica, recognising that it takes place in the second period of ten days in February;
- order the European Commission, in respect of its omissive and inadequate action, to pay compensation for the harm suffered and to be suffered by the applicant hunting associations, also at the Court's discretion, in so far as may be held to be fair.

Pleas in law and main arguments

The present action seeks principally a declaration that the Commission had unlawfully failed to take action following the letter of 29 May 2015 by which the applicant associations put the Commission on notice, requesting it to update the Italian Key Concepts and consequently to amend the date of the beginning of the pre-mating migration of woodcocks, song thrushes and fieldfares, recognising that it begins in the second period of ten days in February.

In support of their action, the applicants claim that the Key Concepts data relating to Italy is invalid, unreliable and subjective in so far as it relates to the beginning of the pre-mating migration of woodcocks, song thrushes and fieldfares which show evident inconsistencies as compared with the data relating to other Member States or Regions of the Member States which are characterised by uniform geographic, environmental and climatic conditions and which have the same catchment and wintering area consisting of the Mediterranean basin.

- The applicants claim that the European Commission breached its obligation to update and adjust periodically the Key Concepts data, and take action to ensure the uniform application of the Treaties throughout all the European Union, without discrimination between Member States.
- Furthermore, the applicants claim that the Commission's wrongful conduct, characterised as omissive and inadequate, is also in breach of Article 17(1) TEU; Articles 192 and 291 TFEU; Articles 7, 10 and 16 Directive 2009/147/EC of the European Parliament and of the Council of 30 November 2009 on the conservation of wild birds and recital 4 of the preamble thereto; Paragraph 2.5.13 of the Guide to sustainable hunting under the Birds Directive, Council Directive 79/409/EEC (and Directive 2009/14/EC) on the conservation of wild birds; Regulation (EU) No 182/2011 of the European Parliament and Council of 16 February 2011; Articles 4(2) and 9 of the Charter of Fundamental Rights of the European Union, and Article 18 TFEU.