

Action brought on 31 March 2014 — European Commission v Hellenic Republic

(Case C-149/14)

(2014/C 184/18)

*Language of the case: Greek***Parties***Applicant:* European Commission (represented by: M. Patakia and E. Manhaeve, acting as Agents)*Defendant:* Hellenic Republic**Form of order sought**

The applicant claims that the Court should:

- Declare that the Hellenic Republic failed to fulfil its obligations under Article 3(4) of Council Directive 91/676/EEC of 12 December 1991 ⁽¹⁾ concerning the protection of waters against pollution caused by nitrates from agricultural sources in that it failed to designate areas which are characterised by the presence of bodies of groundwater or surface waters which are affected or are likely to be affected by an excessive concentration of nitrates and/or the phenomenon of eutrophication as ‘nitrate vulnerable zones’ (NVZ), a designation which ought to have been made on the basis of the available data and in that, additionally, by not having established the action programmes which are specified in Article 5 of that directive within one year after the designations referred to in Article 3(4) of the directive, the Hellenic Republic also infringed the provisions of Article 5(1) of Council Directive 91/676/EEC of 12 December 1991 concerning the protection of waters against pollution caused by nitrates from agricultural sources;
- order the Hellenic Republic to pay the costs.

Pleas in law and main arguments

1. The objective of the directive on nitrates pollution is to reduce water pollution caused or induced by nitrates from agricultural sources and, further, the prevention of such pollution. The directive imposes on the Member States the obligation to adopt various measures for the attainment of that objective. The relevant obligations include the obligation to designate areas of land which are in the territories of the Member States and the waters of which:
 - (a) drain into surface freshwaters and/or groundwater (Article 3, Annex 1) which contain or could contain more than 50 mg/l nitrates, if the action required by the nitrates directive is not taken, and
 - (b) drain into freshwater bodies, estuaries, coastal waters and marine waters which are or may become eutrophic, if action is not taken.The abovementioned areas are called ‘nitrate vulnerable zones’ or NVZ.
2. The Commission undertook a technical examination of the designation of NVZ by the Hellenic Republic in the framework of the directive and, on the basis of that examination, considered that the NVZ designation ought to be extended, in order fully to correspond to the requirements of the directive.
3. From the information on concentration of nitrates submitted by Greece to the Commission (on the basis of Article 10 of the Directive, both for the 2004-2007 period and for the 2008-2011 period) and particularly on the basis of the data on the mean and maximum nitrate concentration figures in groundwater and the data related to eutrophic surface water (illustrative maps 3 and 4), the Commission identified nine areas which ought to have been designated as NVZ and/or in respect of which the currently designated zone ought to have been extended.
4. Having made such an analysis, in respect of each area, the Commission requests that the Court declare that the Hellenic Republic failed to fulfil its obligations under Article 3(4) of Council Directive 91/676/EEC of 12 December 1991 concerning the protection of waters against pollution caused by nitrates from agricultural sources in that it failed to designate areas which are characterised by the presence of bodies of groundwater or surface waters which are affected or are likely to be affected by an excessive concentration of nitrates and/or the phenomenon of eutrophication as ‘nitrate vulnerable zones’ (NVZ), a designation which ought to have been made on the basis of the available data.
5. Further, by not having established the action programmes which are specified in Article 5 of that directive within one year after the designations referred to in Article 3(4) of the directive, the Hellenic Republic also infringed the provisions of Article 5(1) of Council Directive 91/676/EEC of 12 December 1991 concerning the protection of waters against pollution caused by nitrates from agricultural sources.

⁽¹⁾ OJ 1991 L 375, p. 1