



Press and Information

Court of Justice of the European Union

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Judgment in Case C-308/08  
Commission v Spain

## **The Court finds that the Commission has failed to prove that the upgrading of a transport link risks bringing about the extinction of the Iberian lynx in the Doñana Park in Spain**

*However, the overall situation in the Doñana site might not be satisfactory in the light of the requirements relating to the conservation of that species*

The Habitats Directive<sup>1</sup> provides for the creation, under the name Natura 2000, of a European ecological network of sites hosting natural habitat types and species of Community interest so that they can be maintained or, where appropriate, restored to a favourable conservation status.

In December 1997, Spain proposed the Doñana natural park (Andalusia) as a site of Community importance because of the presence there, inter alia, of Iberian lynx. The Commission placed that site on the Community list in July 2006.

In November 1999, a project was adopted for the upgrading, through its conversion into a regional road, of the country byroad which runs alongside the edge of that natural park and cuts through a section of it. Approval of the asphaltting works was subject to the implementation of measures such as the construction of wildlife crossings, the provision of appropriate road signs, and the erection of fencing along the length of the section crossing the forest area, that being the most favourable area for the conservation of the Iberian lynx. In addition, a number of corrective measures were carried out gradually.

However, the Commission considered that the upgrading of the country road, in an area of particular sensitivity in relation to the survival of the Iberian lynx, leads to the fragmentation of the habitat of that species, making it difficult for the animals to disperse and for the connection between the various 'territorial nuclei' to be maintained and, above all, exposing young animals to the risk of being struck by a vehicle and killed. Consequently, the Commission brought infringement proceedings against Spain.

The Court points out that, pursuant to the Habitats Directive, Member States must take appropriate protective measures to preserve the characteristics of sites which they have identified with a view to their inclusion on the list of sites of Community importance. Member States cannot therefore authorise intervention where there is a risk that the ecological characteristics of those sites will be seriously compromised as a result.

In the light of the various items of information in the case-file, the Court finds that **it has not been proved that the upgrading of the country road, as such, has had a real impact on the habitat fragmentation of the Iberian lynx in the Doñana region.** Moreover, although two Iberian lynx were killed on the road between 2000 and October 2004, it is not contested that, ever since the additional corrective measures were implemented in November 2004, no Iberian lynx has been run over on that road. Given that fact and in the light of the other information provided, the Court finds that it has not been proved that the implementation of the project for upgrading the country road has placed the Iberian lynx in great danger of being struck by vehicles.

<sup>1</sup> 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).

Thus, although certain evidence in the case-file appears to indicate that **the overall situation in the Doñana site** might not be satisfactory in the light of the requirements relating to conservation of the Iberian lynx – in particular, because of the relatively high number of cases in which animals of that priority species have died because of being struck by a vehicle – **the evidence before the Court is not sufficient for it to find that the project for upgrading the country road, accompanied by the corrective measures, constitutes in itself intervention of a kind which places the Iberian lynx on the site concerned in danger of extinction and which, accordingly, risks seriously compromising the ecological characteristics of that site.**

The Court therefore dismisses the Commission's action.

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**NOTE:** An action for failure to fulfil obligations directed against a Member State which has failed to comply with its obligations under European Union law may be brought by the Commission or by another Member State. If the Court of Justice finds that there has been a failure to fulfil obligations, the Member State concerned must comply with the Court's judgment without delay.

Where the Commission considers that the Member State has not complied with the judgment, it may bring a further action seeking financial penalties. However, if measures transposing a directive have not been notified to the Commission, the Court of Justice can, on a proposal from the Commission, impose penalties at the stage of the initial judgment.

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The [full text](#) of the judgment is published on the CURIA website on the day of delivery.

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