



## PRESS RELEASE No 30/26

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Judgment of the Court in Case C-613/24 | Commission v Portugal (Special areas of conservation – Failure to comply with a judgment of the Court of Justice)

### **Twofold failure to fulfil obligations: Portugal is ordered to pay €10 million for failing to comply with a judgment of the Court of Justice finding an infringement of the Habitats Directive**

*The Court also imposes on Portugal a penalty payment of €41 250 per day until that judgment is fully complied with, which will be reduced as that Member State makes progress*

The preservation and restoration of biodiversity in Europe is one of the European Union's main priorities. The Habitats Directive <sup>1</sup> contributes to this through the conservation of natural habitats as well as of wild fauna and flora present on the European territory of the Member States. To that end, it has set up the 'Natura 2000' network, the largest ecological network in the world. Natura 2000 aims to ensure, in a coherent and transnational manner, the long-term survival of the most valuable and threatened species and habitats in Europe. The network includes special areas of conservation (SACs) designated by Member States under the Habitats Directive and special protection areas classified under the Birds Directive. <sup>2</sup>

Under the Habitats Directive, for the purpose of setting up Natura 2000, the European Commission is to establish, in agreement with each Member State, a list of sites of Community importance (SCIs). <sup>3</sup> The Member States concerned are required to designate those sites as SACs as soon as possible and within six years at most. SACs are subject to a special protection system, under which necessary measures for the maintenance or restoration, at a favourable conservation status, of the natural habitats and/or the populations of the species for which the site is designated must be adopted. <sup>4</sup>

On 5 September 2019, the Court delivered a judgment <sup>5</sup> finding that Portugal had failed to fulfil its obligations to designate as SACs a total of 61 SCIs <sup>6</sup> of the Atlantic and Mediterranean biogeographical regions within the periods laid down by the Directive, and to adopt the necessary conservation measures.

On 21 September 2024, taking the view that Portugal had not complied with the Court's judgment, the Commission brought a further action for failure to fulfil obligations. It requested that the Court impose financial penalties.

**The Court finds that its first judgment has not been complied with and requires Portugal to pay a lump sum and a penalty payment.**

The Court observes, first of all, that **the legislation adopted by Portugal, which merely designates SCIs as SACs without specifying either the natural habitat types or the protected species present on each of them, remains inadequate for the purpose of complying with the Habitats Directive.** <sup>7</sup>

Next, the Court finds that **Portugal has still not adopted appropriate conservation measures.**

The Court considers that these are **particularly serious infringements of EU environmental law, in which Portugal has persisted.** Given that **Portugal's territory hosts rich biodiversity**, including 99 habitat types and 335 species covered by

the Habitats Directive, what is at stake for the European Union's common heritage there is especially important. In view of this, as well as the **considerable duration** of the infringement and **Portugal's capacity to pay, the Court sets the amount of the lump sum at €10 million.**

**The Court considers it appropriate also to impose a penalty payment, in order to encourage Portugal to bring the infringement to an end: having regard to the importance of the network effect in the Natura 2000 strategy, the financial penalties must be maintained until the last of the 61 SACs concerned is adequately protected.** Portugal is therefore ordered to pay the Commission a **penalty payment of €41 250 per day** (corresponding to 55 sites which have still not been protected x €750) as from today and until full compliance with the judgment of 5 September 2019, **with a progressive reduction of €750 per day per SCI that is brought into compliance** with that judgment.

**NOTE:** An action for failure to fulfil obligations directed against a Member State which has failed to comply with its obligations under EU 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 and, as the case may be, the abstract](#) of the judgment is published on the CURIA website on the day of delivery.

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<sup>1</sup> [Council Directive 92/43/EEC](#) of 21 May 1992 on the conservation of natural habitats and of wild fauna and flora ('the Habitats Directive').

<sup>2</sup> [Directive 2009/147/EC](#) of the European Parliament and of the Council of 30 November 2009 on the conservation of wild birds.

<sup>3</sup> According to the Habitats Directive, an SCI is a site which, in the biogeographical region or regions to which it belongs, contributes significantly to the maintenance or restoration at a favourable conservation status of a natural habitat type or of a species whose conservation requires the designation of SACs and may also contribute significantly to the coherence of the Natura 2000 network, and/or contributes significantly to the maintenance of biological diversity within the biogeographic region or regions concerned. The Directive designates five biogeographical regions: Alpine, Atlantic, Continental, Macaronesian and Mediterranean. For animal species ranging over wide areas, SCIs are to correspond to the places within the natural range of such species which present the physical or biological factors essential to their life and reproduction.

<sup>4</sup> Such measures may involve management plans specifically designed or integrated into other development plans, and appropriate statutory, administrative or contractual measures.

<sup>5</sup> Judgment of the Court of Justice of 5 September 2019, *Commission v Portugal* (Designation and protection of special areas of conservation), [C-290/18](#).

<sup>6</sup> Those sites were adopted by the Commission in [Decision 2004/813/EC](#) of 7 December 2004 as regards the Atlantic biogeographical region and in [Decision 2006/613/EC](#) of 19 July 2006 as regards the Mediterranean biogeographical region.

<sup>7</sup> As at 2 February 2022, the reference date for the purpose of assessing the second failure to fulfil obligations (that is to say, two months after the Commission addressed a letter of formal notice to Portugal on 2 December 2021), none of the decrees specifying those habitat types and species had been published. As at 27 November 2024, only 29 of those decrees were in the process of being adopted, with work on the other texts ongoing. As at 24 March 2025, only 6 of the 61 anticipated decrees, aimed at classifying the SCIs in question as SACs, had been adopted and published, the first of them on 6 February 2025 and the five others on 20 March 2025.