

Parties to the main proceedings

Applicants: Le Poumon vert de la Hulpe ASBL, Les amis de la Forêt de Soignes ASBL, Jacques Solvay de la Hulpe, Marie-Noëlle Solvay, Alix Walsh

Defendant: Région wallonne

Questions referred

1. Must Article 1(5) of Directive 85/337/EEC on the assessment of the effects of certain public and private projects on the environment ⁽¹⁾ be interpreted as excluding from its application legislation — such as the Decree of the Walloon Region on certain consents for which there are overriding reasons in the general interest of 17 July 2008 — which merely states that ‘overriding reasons in the general interest have been established’ for the grant of town planning consents, environmental consents and combined town planning and environmental consents relating to the acts and works listed therein and which ‘ratifies’ consents in respect of which it is stated that ‘overriding reasons in the general interest have been established’?
2. (a) Do Articles 1, 5, 6, 7, 8 and 10a of Directive 85/337/EEC, as amended by Directive 97/11/EC ⁽²⁾ and Directive 2003/35/EC, ⁽³⁾ preclude a legal regime in which the right to implement a project subject to an environmental impact assessment is conferred by a legislative act against which no review procedure is available before a court of law or another independent and impartial body established by law which makes it possible to challenge, both in terms of the substance and the procedure followed, the decision granting the right to implement the project?
- (b) Must Article 9 of the Aarhus Convention on access to information, public participation in decision-making and access to justice in environmental matters, concluded on 25 June 1998 and approved by the European Community by Council Decision 2005/370/EC of 17 February 2005, ⁽⁴⁾ be interpreted as requiring the Member States to provide for the possibility of seeking a review before a court of law or another independent and impartial body established by law in order to be able to challenge the legality, in relation to any issue of substance or procedure relating to the substantive or procedural rules governing the authorisation of projects subject to an impact assessment, of decisions, acts or omissions subject to the provisions of Article 6?
- (c) In the light of the Aarhus Convention on access to information, public participation in decision-making and access to justice in environmental matters, concluded on 25 June 1998 and approved by the European Community by Council Decision 2005/370/EC of 17 February 2005, must Article 10a of Directive 85/337/EEC, as amended by Directive 2003/35/EC, be interpreted as requiring the Member States to provide for the possibility of seeking a

review before a court of law or another independent and impartial body established by law in order to be able to challenge the legality of decisions, acts or omissions in relation to any issue of substance or procedure relating to the substantive or procedural rules governing the authorisation of projects subject to an impact assessment?

- ⁽¹⁾ Council Directive 85/337/EEC of 27 June 1985 on the assessment of the effects of certain public and private projects on the environment (OJ 1985 L 175, p. 40).
- ⁽²⁾ Council Directive 97/11/EC of 3 March 1997 amending Directive 85/337/EEC on the assessment of the effects of certain public and private projects on the environment (OJ 1997 L 73, p. 5).
- ⁽³⁾ Directive 2003/35/EC of the European Parliament and of the Council of 26 May 2003 providing for public participation in respect of the drawing up of certain plans and programmes relating to the environment and amending with regard to public participation and access to justice Council Directives 85/337/EEC and 96/61/EC — Statement by the Commission (OJ 2003 L 156, p. 17).
- ⁽⁴⁾ Council Decision 2005/370/EC of 17 February 2005 on the conclusion, on behalf of the European Community, of the Convention on access to information, public participation in decision-making and access to justice in environmental matters (OJ 2005 L 124, p. 1).

Action brought on 26 May 2009 — Commission of the European Communities v Kingdom of Sweden

(Case C-185/09)

(2009/C 180/54)

Language of the case: Swedish

Parties

Applicant: Commission of the European Communities (represented by: U. Jonsson and L. Balta, acting as Agents)

Defendant: Kingdom of Sweden

Form of order sought

- Declare that, by failing to adopt the laws, regulations and administrative provisions necessary to comply with Directive 2006/24/EC of the European Parliament and of the Council of 15 March 2006 on the retention of data generated or processed in connection with the provision of publicly available electronic communications services or of public communications networks and amending Directive 2002/58/EC ⁽¹⁾ or, in any event, by failing to notify the Commission thereof, the Kingdom of Sweden has failed to fulfil its obligations under Article 15(1) of that directive, and

— order the Kingdom of Sweden to pay the costs.

Pleas in law and main arguments

The period prescribed for implementing the Directive expired on 15 September 2007.

⁽¹⁾ OJ L 105, p. 54.

Action brought on 26 May 2009 — Commission of the European Communities v United Kingdom of Great Britain and Northern Ireland

(Case C-186/09)

(2009/C 180/55)

Language of the case: English

Parties

Applicant: Commission of the European Communities (represented by: M. van Beek, P. Van den Wyngaert, Agents)

Defendant: United Kingdom of Great Britain and Northern Ireland

The applicant claim that the Court should:

— Declare that by failing to adopt the laws, regulations and administrative provisions necessary to comply with Council Directive 2004/113/EC ⁽¹⁾ of 13 December 2004 implementing the principle of equal treatment between men and women in the access to and supply of goods and services, or in any event, by failing to communicate them to the Commission, the United Kingdom of Great Britain and Northern Ireland has failed to fulfil its obligations under the Directive;

— order United Kingdom of Great Britain and Northern Ireland to pay the costs.

Pleas in law and main arguments

The period within which the Directive had to be transposed expired on 21 December 2007.

⁽¹⁾ OJ L 373, p. 37.

Action brought on 28 May 2009 — Commission of the European Communities v Republic of Austria

(Case C-189/09)

(2009/C 180/56)

Language of the case: German

Parties

Applicant: Commission of the European Communities (represented by: L. Balta and B. Schöfer, acting as Agents)

Defendant: Republic of Austria

Form of order sought

— Declare that, by failure to adopt the laws, regulations and administrative provisions necessary to implement Directive 2006/24/EC of the European Parliament and of the Council of 15 March 2006 on the retention of data generated or processed in connection with the provision of publicly available electronic communications services or of public communications networks and amending Directive 2002/58/EC, ⁽¹⁾ or by failing to notify the commission thereof, the Republic of Austria has failed to fulfil its obligations under that directive;

— order Republic of Austria to pay the costs.

Pleas in law and main arguments

The period prescribed for implementation of the directive expired on the 15 September 2007. At the time the present action was lodged, the defendant had not yet adopted the necessary measures for the implementation of this directive, or had in any case not notified the Commission thereof.

⁽¹⁾ OJ L 105 of 13.4.2006, p. 54.

Action brought on 28 May 2009 — Commission of the European Communities v Republic of Cyprus

(Case C-190/09)

(2009/C 180/57)

Language of the case: Greek

Parties

Applicant: Commission of the European Communities (represented by: I. Khatzigiannis, A. Margelis, acting as Agents)

Defendant: Republic of Cyprus