

Judgment of the Court (Grand Chamber) of 9 March 2010 (reference for a preliminary ruling from the Tribunale Amministrativo Regionale della Sicilia (Italy)) — Raffineri Mediterranee SpA (ERG) (C-379/08), Polimeri Europa SpA, Syndial SpA v Ministero dello Sviluppo economico, Ministero della Salute, Ministero Ambiente e Tutela del Territorio e del Mare, Ministero delle Infrastrutture, Ministero dei Trasporti, Presidenza del Consiglio dei Ministri, Ministero dell'Interno, Regione Siciliana, Assessorato regionale Territorio ed Ambiente (Sicilia), Assessorato regionale Industria (Sicilia), Prefettura di Siracusa, Istituto superiore di Sanità, Commissario Delegato per Emergenza Rifiuti e Tutela Acque (Sicilia), Vice Commissario Delegato per Emergenza Rifiuti e Tutela Acque (Sicilia), Agenzia Protezione Ambiente e Servizi tecnici (APAT), Agenzia regionale Protezione Ambiente (ARPA Sicilia), Istituto centrale Ricerca scientifica e tecnologica applicata al Mare, Subcommissario per la Bonifica dei Siti contaminati, Provincia regionale di Siracusa, Consorzio ASI Sicilia orientale Zona Sud, Comune di Siracusa, Comune di Augusta, Comune di Melilli, Comune di Priolo Gargallo, Azienda Unità sanitaria locale No 8, Sviluppo Italia Aree Produttive SpA, Invitalia (Agenzia nazionale per l'attrazione degli investimenti e lo sviluppo d'impresa) SpA, formerly Sviluppo Italia SpA, ENI SpA (C-380/08) v Ministero Ambiente e Tutela del Territorio e del Mare, Ministero dello Sviluppo economico, Ministero della Salute, Regione siciliana, Istituto superiore di Sanità, Agenzia per la Protezione dell'Ambiente e per i Servizi tecnici, Commissario delegato per l'Emergenza rifiuti e la Tutela delle Acque

(Joined Cases C-379/08 and C-380/08) ⁽¹⁾

(‘Polluter pays’ principle — Directive 2004/35/EC — Environmental liability — Applicability razione temporis — Pollution occurring before the date laid down for implementation of that directive and continuing after that date — Remedial measures — Duty to consult the undertakings concerned — Annex II)

(2010/C 113/13)

Language of the case: Italian

Referring court

Tribunale Amministrativo Regionale della Sicilia

Parties to the main proceedings

Applicants: Raffineri Mediterranee SpA (ERG) (C-379/08), Polimeri Europa SpA, Syndial SpA (C-379/08), ENI SpA (C-380/08)

Defendants: Ministero dello Sviluppo economico, Ministero della Salute, Ministero Ambiente e Tutela del Territorio e del Mare, Ministero delle Infrastrutture, Ministero dei Trasporti, Presidenza

del Consiglio dei Ministri, Ministero dell'Interno, Regione Siciliana, Assessorato regionale Territorio ed Ambiente (Sicilia), Assessorato regionale Industria (Sicilia), Prefettura di Siracusa, Istituto superiore di Sanità, Commissario Delegato per Emergenza Rifiuti e Tutela Acque (Sicilia), Vice Commissario Delegato per Emergenza Rifiuti e Tutela Acque (Sicilia), Agenzia Protezione Ambiente e Servizi tecnici (APAT), Agenzia regionale Protezione Ambiente (ARPA Sicilia), Istituto centrale Ricerca scientifica e tecnologica applicata al Mare, Subcommissario per la Bonifica dei Siti contaminati, Provincia regionale di Siracusa, Consorzio ASI Sicilia orientale Zona Sud, Comune di Siracusa, Comune di Augusta, Comune di Melilli, Comune di Priolo Gargallo, Azienda Unità sanitaria locale N° 8, Sviluppo Italia Aree Produttive SpA, Invitalia (Agenzia nazionale per l'attrazione degli investimenti e lo sviluppo d'impresa) SpA, formerly Sviluppo Italia SpA

Intervening parties: ENI Divisione Exploration and Production SpA, ENI SpA, Edison SPA (C-379/08), Invitalia (Agenzia nazionale per l'attrazione degli investimenti e lo sviluppo d'impresa) SpA, formerly Sviluppo Italia SpA (C-380/08)

Re:

Reference for a preliminary ruling — Tribunale amministrativo regionale della Sicilia (Italy) — Interpretation of Article 7 of and Annex II to Directive 2004/35/EC of the European Parliament and of the Council of 21 April 2004 on environmental liability with regard to the prevention and remedying of environmental damage (OJ 2004 L 142, p. 56) — Remedial measures — Works on the environmental matrices — National legislation which allows the authorities to require, without assessing the site-specific conditions, that actions be taken which are different from and go further than those originally chosen at the conclusion of an appropriate investigation carried out on a consultative basis which have already been approved and put into effect and are being implemented — Priolo Site of National Interest

Operative part of the judgment

- Articles 7 and 11(4) of Directive 2004/35/EC of the European Parliament and of the Council of 21 April 2004 on environmental liability with regard to the prevention and remedying of environmental damage, in conjunction with Annex II to the directive, must be interpreted as permitting the competent authority to alter substantially measures for remedying environmental damage which were chosen at the conclusion of a procedure carried out on a consultative basis with the operators concerned and which have already implemented or begun to be put into effect. However, in order to adopt such a decision, that authority:

- is required to give the operators on whom such measures are imposed the opportunity to be heard, except where the urgency of the environmental situation requires immediate action on the part of the competent authority;
- is also required to invite, inter alia, the persons on whose land those measures are to be carried out to submit their observations and to take them into account; and
- must take account of the criteria set out in Section 1.3.1. of Annex II to Directive 2004/35 and state in its decision the grounds on which its choice is based, and, where appropriate, the grounds which justify the fact that there was no need for a detailed examination in the light of those criteria or that it was not possible to carry out such an examination due, for example, to the urgency of the environmental situation.

2. In circumstances such as those in the main proceedings, Directive 2004/35 does not preclude national legislation which permits the competent authority to make the exercise by operators at whom environmental recovery measures are directed of the right to use their land subject to the condition that they carry out the works required by the authority, even though that land is not affected by those measures because it has already been decontaminated or has never been polluted. However, such a measure must be justified by the objective of preventing a deterioration of the environmental situation in the area in which those measures are implemented or, pursuant to the precautionary principle, by the objective of preventing the occurrence or resurgence of further environmental damage on the land belonging to the operators which is adjacent to the whole shoreline at which those remedial measures are directed.

⁽¹⁾ OJ C 301, 22.11.2008.

Judgment of the Court (Third Chamber) of 11 March 2010 (reference for a preliminary ruling from the Tribunale amministrativo regionale del Lazio — Italy) — Attanasio Group Srl v Comune di Carbognano

(Case C-384/08) ⁽¹⁾

(Articles 43 EC and 48 EC — Regional legislation laying down mandatory minimum distances between roadside service stations — Jurisdiction of the Court and admissibility of the reference for a preliminary ruling — Freedom of establishment — Restriction)

(2010/C 113/14)

Language of the case: Italian

Referring court

Tribunale amministrativo regionale del Lazio

Parties to the main proceedings

Applicant: Attanasio Group Srl

Defendant: Comune di Carbognano

Intervening party: Felgas Petroli Srl

Re:

Reference for a preliminary ruling — Tribunale amministrativo regionale per il Lazio (Italy) — Compatibility of national provisions laying down mandatory minimum distances between roadside petrol stations with Articles 43, 48, 49 and 56 EC and the principles of non-discrimination.

Operative part of the judgment

Article 43 EC, read in conjunction with Article 48 EC, is to be interpreted as meaning that domestic provisions such as those at issue in the main proceedings, which lay down mandatory minimum distances between roadside service stations, constitute a restriction on the freedom of establishment enshrined in the EC Treaty. In circumstances such as those in the main proceedings, that restriction does not appear to be justified by the objectives of road safety, protection of health and the environment, or the rationalisation of the service provided to users, these being matters for the national court to verify.

⁽¹⁾ OJ C 301, 22.11.2008.

Judgment of the Court (Second Chamber) of 4 March 2010 — Pilar Angé Serrano, Jean-Marie Bras, Adolfo Orcajo Teresa, Dominiek Decoutere, Armin Hau, Francisco Javier Solana Ramos v European Parliament, Council of the European Union

(Case C-496/08 P) ⁽¹⁾

(Appeals — Officials — Success in internal competitions for change of category under the old Staff Regulations — Entry into force of the new Staff Regulations — Transitional rules for classification in grade — Plea of illegality — Acquired rights — Legitimate expectations — Equal treatment — Principle of sound administration and the duty to have regard for the welfare of officials)

(2010/C 113/15)

Language of the case: French

Parties

Appellants: Pilar Angé Serrano, Jean-Marie Bras, Adolfo Orcajo Teresa, Dominiek Decoutere, Armin Hau, Francisco Javier Solana Ramos (represented by: E. Boigelot, avocat)