

plant for pulp — Incorrect assessment of the conditions for the admissibility of an action for annulment of a Commission decision based on Article 88(3) EC, brought by a party concerned within the meaning of Article 88(2) EC

Operative part of the judgment

The Court:

1. Dismisses the appeal;
2. Orders the European Commission and Zellstoff Stendal GmbH to bear their own costs.

(¹) OJ C 102, 1.5.2009.

Judgment of the Court (Fourth Chamber) of 12 May 2011 (reference for a preliminary ruling from the Oberverwaltungsgericht für das Land Nordrhein Westfalen — Germany) — Bund für Umwelt und Naturschutz Deutschland, Landesverband Nordrhein-Westfalen e.V. v Bezirksregierung Amsberg

(Case C-115/09) (¹)

(Directive 85/337/EEC — Environmental impact assessment — Århus Convention — Directive 2003/35/EC — Access to justice — Non-governmental organisations for the protection of the environment)

(2011/C 204/10)

Language of the case: German

Referring court

Oberverwaltungsgericht für das Land Nordrhein Westfalen

Parties to the main proceedings

Applicant: Bund für Umwelt und Naturschutz Deutschland, Landesverband Nordrhein-Westfalen e.V.

Defendant: Bezirksregierung Arnsberg

Intervening party: Trianel Kohlekraftwerk Lünen GmbH &Co. KG

Re:

Reference for a preliminary ruling — Oberverwaltungsgericht für das Land Nordrhein-Westfalen — Interpretation of Article 10a of 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), as amended by 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 (OJ 2003 L 156, p. 17) — Right

of non-governmental organisations to appeal against decisions authorising projects which may have significant effects on the environment — Extent of that right — Possibility of relying on all relevant rules or only on rules based directly on Community law, including rules which protect only the public interest and not the rights of individuals — Substantive requirements if only rules based on Community law may be relied on

Operative part of the judgment

1. Article 10a of Directive 85/337/EEC of 27 June 1985 on the assessment of the effects of certain public and private projects on the environment, as amended by Directive 2003/35/EC of the European Parliament and of the Council of 26 May 2003, precludes legislation which does not permit a non-governmental organisation promoting environmental protection, referred to in Article 1(2) of Directive 85/337, to challenge before the courts, in the context of an action brought against a decision authorising projects 'likely to have significant effects on the environment' within the meaning of Article 1(1) of Directive 85/337, as amended by Directive 2003/35, the infringement of a rule flowing from EU environment law and intended to protect the environment, on the ground that that rule protects only the interests of the general public and not the interests of individuals.
2. Such a non-governmental organisation can derive, from the final sentence of the third paragraph of Article 10a of Directive 85/337, as amended by Directive 2003/35, the right to challenge before the courts, in the context of an action brought against a decision authorising projects 'likely to have significant effects on the environment' within the meaning of Article 1(1) of Directive 85/337, as amended, the infringement of the national rules flowing from Article 6 of Directive 92/43/EC of 21 May 1992 on the conservation of natural habitats and of wild fauna and flora, as amended by Directive 2006/105/EC of 20 November 2006, although national procedural law does not permit such a challenge, on the ground that the rules relied on protect only the interests of the general public and not the interests of individuals.

(¹) OJ C 141, 20.6.2009.

Judgment of the Court (Third Chamber) of 12 May 2011 — Grand Duchy of Luxembourg v European Parliament and Council of the European Union

(Case C-176/09) (¹)

(Action for annulment — Directive 2009/12/EC — Airport charges — Scope — Airports whose annual traffic is over 5 million passenger movements per year and those with the highest passenger movements in each Member State — Validity — Principles of equal treatment, proportionality and subsidiarity)

(2011/C 204/11)

Language of the case: French

Parties

Applicant: Grand Duchy of Luxembourg (represented by: C. Schiltz, acting as Agent, and by P. Kinsch, avocat)