

**Reference for a preliminary ruling from the Landgericht Berlin (Germany) lodged on 22 January 2010 — Landwirtschaftliches Unternehmen e.G. Sonderhausen v BVVG Bodenverwertungs- und -verwaltungs GmbH**

(Case C-37/10)

(2010/C 100/30)

*Language of the case: German*

**Referring court**

Landgericht Berlin

**Parties to the main proceedings**

*Applicant:* Landwirtschaftliches Unternehmen e.G. Sonderhausen

*Defendant:* BVVG Bodenverwertungs- und -verwaltungs GmbH

**Question referred**

Do the provisions of the second and third sentences of Paragraph 5(1) of the Flächenerwerbsverordnung (Land Purchase Regulation), implementing Paragraph 4(3)(1) of the Ausgleichsleistungsgesetz (Law on compensation in respect of the expropriation of private property in the former GDR), infringe Article 87 EC?

**Reference for a preliminary ruling from the Raad van State (Belgium), lodged on 25 January 2010 — 1. Vlaamse Dierenartsenvereniging VZW, 2. Marc Janssens v Belgische Staat; intervenor: Luk Vangheluwe**

(Case C-42/10)

(2010/C 100/31)

*Language of the case: Dutch*

**Referring court**

Raad van State

**Parties to the main proceedings**

*Applicants:* Vlaamse Dierenartsenvereniging VZW

Marc Janssens

*Defendant:* Belgische Staat

*Intervener:* Luk Vangheluwe

**Questions referred**

1. Do Articles 3(b), 4(2), 5 and the second paragraph of Article 17 of Regulation (EC) No 998/2003<sup>(1)</sup> of the European Parliament and of the Council of 26 May 2003 on the animal health requirements applicable to the non-commercial movement of pet animals and amending Council Directive 92/65/EEC, and the articles of and annexes to Commission Decision 2003/803/EC<sup>(2)</sup> of 26 November 2003 establishing a model passport for the intra-Community movements of dogs, cats and ferrets preclude national legislation regulating passports for cats and ferrets from, on the one hand, referring to the model and the additional requirements laid down in the aforementioned Commission Decision of 26 November 2003, yet, on the other hand, also prescribing that every passport must bear a unique number consisting of 13 characters, namely, 'BE', being the ISO code for Belgium, followed by the identification number of the distributor consisting of two digits, and a serial number consisting of nine digits?
2. Do Articles 3(b), 4(2), 5 and the second paragraph of Article 17 of Regulation (EC) No 998/2003 ... and the articles of and annexes to ... Decision 2003/803/EC ... preclude national legislation from also using the model of the European pet passport as proof of both the identification and the registration of dogs and, in that connection, making provision for third parties to insert changes with regard to the identification of the owner and the animal in Parts I to III of a European pet passport attested by an authorised veterinarian by means of identification stickers which are superimposed on the previous identification details?

<sup>(1)</sup> OJ 2003 L 146, p. 1.

<sup>(2)</sup> OJ 2003 L 312, p. 1.

**Reference for a preliminary ruling from the Simvoulio tis Epikratias (Greece) lodged on 25 January 2010 — Nomarkhiaki Aftodiikisi Aitolokarnanias and Others, Elliniki Etairia gia tin Prostasia tou Perivallontos kai tis Politistikis Klironomias and Others and Pagkosmio Tamio gia ti Fisi — WWF Ellas v Ipourgos Perivallontos, Khorotaxias kai Dimosion Ergon and Others**

(Case C-43/10)

(2010/C 100/32)

*Language of the case: Greek*

**Referring court**

Simvoulio tis Epikratias (Council of State)

### Parties to the main proceedings

*Applicants:* Nomarkhiaki Aftodiikisi Aitoloakarnanias (Prefectural Authority of Aitoloakarnania) and Others, Elliniki Etairia gia tin Prostasia tou Perivallontos kai tis Politistikis Klironomias (Hellenic Society for the Protection of the Environment and Cultural Heritage) and Others and Pagkosmio Tamio gia ti Fisi — WWF Ellas (World Wide Fund for Nature — WWF Greece)

*Defendants:* Ipourgos Perivallontos, Khorotaxias kai Dimosion Ergon (Minister for the Environment, Regional Planning and Public Works) and Others

### Questions referred

1. Does Article 13(6) of Directive 2000/60/EC establishing a framework for Community action in the field of water policy (OJ 2000 L 327, p. 1) merely set an ultimate temporal limit (22 December 2009) for the drawing up of management plans for water resources or does it lay down, up until that date, a special time-limit for transposition of the relevant provisions of Articles 3, 4, 5, 6, 9, 13 and 15 of that directive?

Should the Court of Justice of the European Communities hold that the foregoing provision of the directive merely sets an ultimate temporal limit for the drawing up of management plans for water resources, the following question must additionally be referred for a preliminary ruling:

2. Is national legislation that permits the transfer of water from a particular river basin to another river basin, without the plans having yet been drawn up for the river basin districts within which the river basins from and towards which water will be transferred are located, consistent with Articles 2, 3, 4, 5, 6, 9, 13 and 15 of Directive 2000/60, given that, under Article 2(15) of that directive, the main unit for management of a river basin is the river basin district to which it belongs?

Should the preceding question be answered in the affirmative, the following question must additionally be referred for a preliminary ruling:

3. For the purpose of Articles 2, 3, 5, 6, 9, 13 and 15 of Directive 2000/60, is the transfer of water from a river basin district to a neighbouring river basin district permitted? Should the answer be in the affirmative, can the purpose of that transfer be only to meet water-supply needs or can irrigation and power generation also be served? Is it in any event a requirement, for the purpose of those provisions of the directive, that the administrative

authorities have decided, stating reasons and on the basis of the necessary scientific study, that the receiving river basin district cannot meet with its own water resources the needs which it has in respect of water supply, irrigation and so forth?

Should the Court of Justice of the European Communities hold, as regards Question 1, that Article 13(6) of Directive 2000/60 does not merely set an ultimate temporal limit (22 December 2009) for the drawing up of management plans for water resources, but lays down a special time-limit for transposition of the relevant provisions of Articles 3, 4, 5, 6, 9, 13 and 15 of that directive, the following question must additionally be referred for a preliminary ruling:

4. Does national legislation, enacted within that special time-limit for transposition, that permits the transfer of water from a particular river basin to another river basin, without the plans having yet been drawn up for the river basin districts within which the river basins from and towards which water will be transferred are located, place, without more, the practical effect of that directive at risk, or is it necessary, in order to assess whether the practical effect of the directive is placed at risk, to take account of criteria such as the scale of the interventions provided for and the objectives of the transfer of the water?
5. Is a legislative provision which is enacted by a national parliament and which approves river basin management plans without the relevant national rules providing for a public consultation stage in the procedure before the national parliament, and without it being apparent from the case-file that that the consultation procedure before the administrative authorities that is provided for in the directive was observed, compatible with Articles 13, 14 and 15 of Directive 2000/60 which concern the procedures for informing and consulting the public and for public participation?
6. For the purpose 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 Council Directive 97/11/EC of 3 March 1997 (OJ 1997 L 73, p. 5), does an environmental impact assessment which relates to the construction of dams and the transfer of water and which was placed for approval before the national parliament after the annulment by a judicial decision of the measure by which it had previously been approved and in respect of which the publicity procedure had previously been observed, without that procedure being observed anew, meet the requirements of Articles 1, 2, 5, 6, 8 and 9 of the directive regarding informing the public and public participation?

7. Does a plan to divert a river fall within the field of application of Directive 2001/42/EC of the European Parliament and of the Council of 27 June 2001 on the assessment of the effects of certain plans and programmes on the environment (OJ 2001 L 197, p. 30) where that plan (a) concerns the construction of dams and the transfer of water from one river basin district to another, (b) falls within the field of application of Directive 2000/60/EC of the European Parliament and of the Council of 23 October 2000 establishing a framework for Community action in the field of water policy (OJ 2000 L 327, p. 1), (c) concerns works under 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) and (d) may have environmental effects on areas covered by 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)?

Should the preceding question be answered in the affirmative, the following question must additionally be referred for a preliminary ruling:

8. For the purpose of Article 13(1) of Directive 2001/42, can acts which concerned the scheme at issue and have been annulled with retroactive effect by judicial decisions be considered to be formal preparatory acts which were issued before 21 July 2004 so that there is no obligation to prepare a strategic environmental report?

Should the preceding question be answered in the negative, the following question must additionally be referred for a preliminary ruling:

9. For the purpose of Article 11(2) of Directive 2001/42, if a plan simultaneously falls within the field of application of that directive and within that of Directives 2000/60 and 85/337 which also require the environmental effects of that scheme to be assessed, are the assessments which have been drawn up on the basis of the provisions of Directives 2000/60 and 85/337 sufficient for observance of the requirements of Directive 2001/42, or will an autonomous strategic environmental report have to be prepared?

10. For the purpose of Articles 3, 4 and 6 of 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), were the areas which were included in the national lists of sites of Community importance (SCIs) and, ultimately, were included in the Community list of SCIs covered by the

protection afforded by Directive 92/43 before the publication of Commission Decision 2006/13/EC of 19 July 2006, by which the list of protected SCIs for the Mediterranean biogeographical region was adopted?

11. Is it possible, for the purpose of Articles 3, 4 and 6 of Directive 92/43, for the competent national authorities to grant consent authorising the carrying out of a project for the diversion of waters which is not directly connected with or necessary to the conservation of a district included within a special protection area when all the studies that are contained in the file for that project record a complete lack of information or an absence of reliable and updated data regarding the birds in that district?

12. For the purpose of Articles 3, 4 and 6 of Directive 92/43, can reasons for which a project to divert waters is undertaken that relate principally to irrigation and secondarily to water supply constitute the imperative public interest which the directive requires in order for that scheme to be permitted to be carried out notwithstanding all its adverse effects on areas protected by the directive?

Should the preceding question be answered in the affirmative, the following question must additionally be referred for a preliminary ruling:

13. In determining the sufficiency of the compensatory measures which are necessary to ensure that the overall coherence of a Natura 2000 area that is harmed by a project to divert waters is protected, for the purpose of Articles 3, 4 and 6 of Directive 92/43 should criteria such as the breadth of that diversion and the extent of the works which the diversion entails be taken into account?

14. For the purpose of Articles 3, 4 and 6 of Directive 92/43, interpreted in the light of the principle of sustainable development as enshrined in Article 6 of the EC Treaty, may the competent national authorities grant consent for the carrying out of a project to divert waters within a Natura 2000 area that is not directly connected with or necessary to the preservation of the coherence of that area, when it is apparent from the environmental impact assessment for the project that the project will result in the conversion of a natural fluvial ecosystem into a man-made fluvial and lacustrine ecosystem?