

Judgment of the Court (Second Chamber) of 20 December 2017 (request for a preliminary ruling from the Verwaltungsgerichtshof — Austria) — Protect Natur-, Arten- und Landschaftsschutz Umweltorganisation v Bezirkshauptmannschaft Gmünd

(Case C-664/15) ⁽¹⁾

(Reference for a preliminary ruling — Environment — Directive 2000/60/EC — EU action in the field of water policy — Article 4(1) and Article 14(1) — Obligations to prevent deterioration of the status of bodies of surface water and encourage the active involvement of all interested parties in the implementation of the directive — Aarhus Convention — Public participation in decision-making and access to justice in environmental matters — Article 6 and Article 9(3) and (4) — Charter of Fundamental Rights of the European Union — Article 47 — Right to effective judicial protection — Project that is likely to have an impact on water status — Administrative procedure for a permit — Environmental organisation — Application seeking to secure status as a party to the administrative procedure — Possibility of relying on rights deriving from Directive 2000/60/EC — Extinction of the status of party to the procedure and of the right to bring an action if those rights are not exercised within good time during the administrative procedure)

(2018/C 072/04)

Language of the case: Germany

Referring court

Verwaltungsgerichtshof

Parties to the main proceedings

Applicant: Protect Natur-, Arten- und Landschaftsschutz Umweltorganisation

Defendant: Bezirkshauptmannschaft Gmünd

Operative part of the judgment

1. Article 9(3) of the Convention on access to information, public participation in decision-making and access to justice in environmental matters, signed at Aarhus on 25 June 1998 and approved on behalf of the European Community by Council Decision 2005/370/EC of 17 February 2005, read in conjunction with Article 47 of the Charter of Fundamental Rights of the European Union, must be interpreted as meaning that a duly constituted environmental organisation operating in accordance with the requirements of national law must be able to contest before a court a decision granting a permit for a project that may be contrary to the obligation to prevent the deterioration of the status of bodies of water as set out in Article 4 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.
2. The combined provisions of Article 9(3) of that convention approved by Decision 2005/370, Article 47 of the Charter of Fundamental Rights and Article 14(1) of Directive 2000/60 must be interpreted as precluding national procedural rules that deprive, in situations such as that in question in the main action, environmental organisations of the right to participate, as a party to the procedure, in a permit procedure that is intended to implement Directive 2000/60 and limit the right to bring proceedings contesting decisions resulting from such procedure solely to persons who do have that status.
3. Subject to verification by the referring court of the relevant matters of fact and national law, Article 9(3) and (4) of that convention approved by Decision 2005/370, read in conjunction with Article 47 of the Charter of Fundamental Rights, must be interpreted as precluding, in a situation such as that in question in the main action, a national procedural rule that imposes a time limit on an environmental organisation, pursuant to which a person loses the status of party to the procedure and therefore cannot bring an action against the decision resulting from that procedure if it failed to submit objections in good time following the opening of the administrative procedure and, at the very latest, during the oral phase of that procedure.

⁽¹⁾ OJ C 11, 29.3.2016.