

Judgment of the Court (Fourth Chamber) of 8 September 2022 (request for a preliminary ruling from the Nejvyšší správní soud — Czech Republic) — ET v Ministerstvo životního prostředí

(Case C-659/20) ⁽¹⁾

(Reference for a preliminary ruling — Protection of species of wild fauna and flora by regulating trade therein — Regulation (EC) No 338/97 — Article 8(3)(d) — Concept of ‘specimens of animal species that are born and bred in captivity’ — Regulation (EC) No 865/2006 — Article 1(3) — Concept of ‘breeding stock’ — Article 54(2) — Establishment of the breeding stock — Controlled ancestry)

(2022/C 408/13)

Language of the case: Czech

Referring court

Nejvyšší správní soud

Parties to the main proceedings

Applicant: ET

Defendant: Ministerstvo životního prostředí

Operative part of the judgment

1. Article 1(3) of Commission Regulation (EC) No 865/2006 of 4 May 2006 laying down detailed rules concerning the implementation of Council Regulation (EC) No 338/97 on the protection of species of wild fauna and flora by regulating trade therein,

must be interpreted as meaning that:

the concept of ‘breeding stock’, within the meaning of that provision, does not include the ancestors of specimens bred in a breeding operation which have never been owned or kept by that operation.

2. Article 54(2) of Regulation No 865/2006, read in conjunction with Article 17 of the Charter of Fundamental Rights of the European Union and the principle of protection of legitimate expectations,

must be interpreted as:

precluding a specimen, kept by a breeder, of a species of animal referred to in Annex A to Council Regulation (EC) No 338/97 of 9 December 1996 on the protection of species of wild fauna and flora by regulating trade therein, from being regarded as having been born and bred in captivity, within the meaning of Article 8(3) of that regulation, where the ancestors of that specimen, which do not form part of the breeding stock of that breeder, were acquired by a third party before the entry into force of those regulations in a manner which is detrimental to the survival of the species concerned in the wild.

⁽¹⁾ OJ C 62, 22.2.2021.