

**Form of order sought**

- Declare that, by failing to transpose correctly Articles 2(4), 4(5)(b), 6(2)(d), 8a(4) and 4(3), in conjunction with Annex III(2)(b) and (c)(iv), of Directive 2011/92/EU [of the European Parliament and of the Council of 13 December 2011] on the assessment of the effects of certain public and private projects on the environment, <sup>(1)</sup> as amended by Directive 2014/52/EU of the European Parliament and of the Council of 16 April 2014, <sup>(2)</sup> the Portuguese Republic has failed to fulfil its obligations under Directive 2011/92/EU;
- order the Portuguese Republic to pay the costs.

**Pleas in law and main arguments**

The Commission considers that the Portuguese Republic has not correctly transposed into Portuguese law several articles of Directive 2011/92/EU of the European Parliament and of the Council of 13 December 2011, on the assessment of the effects of certain public and private projects on the environment, as amended by Directive 2014/52/EU of the European Parliament and of the Council of 16 April 2014 (in its amended and consolidated version, 'the Directive'). The Commission sent a letter of formal notice to the Portuguese Republic on 11 October 2019. A reasoned opinion was then sent to the Portuguese Republic on 12 November 2021. The Commission therefore brings the present action on the basis of the following pleas:

- By not limiting the exemption provided for in Article 2(4) of the Directive with regard to environmental impact assessment ('EIA') procedures to cases where the application of those provisions would undermine the purpose of the project, the Portuguese Republic infringed Article 2(4) of the Directive.
- By providing that certain projects are not subject to an EIA, where the competent authority does not issue an opinion on the submission of those projects to an EIA within the legal time period, the Portuguese Republic infringed Article 4(5) of the Directive.
- By failing to provide that the public be informed, by appropriate means, as soon as reasonably practicable, of the nature of possible decisions or, as the case may be, of the draft EIA decision, the Portuguese Republic infringed Article 6(2) of the Directive.
- By failing to provide that the types of parameters to be monitored and the duration of the monitoring, identified in a decision approving a project, are proportionate to the nature, location and size of the project and the significance of its effects on the environment, the Portuguese Republic infringed Article 8a(4) of the Directive.
- By not including the 'availability' of natural resources among the relevant criteria for determining whether a project should be subject to an EIA, the Portuguese Republic infringed Article 4(3) in conjunction with Annex III, point 2(b), of the Directive.
- By failing to refer to 'Union legislation' or to areas 'in which there has already been a failure to meet the environmental quality standards' when listing the relevant elements for determining the areas in which the absorption capacity of the natural environment should be assessed as a relevant criterion for determining whether a project should be subject to an EIA, the Portuguese Republic infringed Article 4(3) in conjunction with Annex III, point 2(c)(vi), of the Directive.

<sup>(1)</sup> OJ 2012 L 26, p. 1.

<sup>(2)</sup> OJ 2014 L 124, p. 1.

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**Appeal brought on 17 April 2023 by European Association of Non-Integrated Metal Importers & distributors (Euranimi) against the order of the General Court (Third Chamber) delivered on 07 February 2023 in Case T-81/22, Euranimi v Commission**

**(Case C-252/23 P)**

(2023/C 189/35)

*Language of the case: English*

**Parties**

*Appellant:* European Association of Non-Integrated Metal Importers & distributors (Euranimi) (represented by: M. Campa, D. Rovetta, V. Villante, avvocati, P. Gjørtler, advokat.)

*Other party to the proceedings:* European Commission

**Form of order sought**

The appellant claims that the Court should:

- declare admissible the present appeal;
- set aside the order under appeal and declare the action brought by Euranimi admissible;
- send back the case to the General Court for examining the substance of Euranimi's action;
- order the European Commission to bear the legal cost of the present appeal and of the procedure at first instance.

**Pleas in law and main arguments**

In support of the appeal, the appellant relies on three main pleas in law:

First plea: error in law in interpreting the Article 263 (4) TFEU and in particular the requisite of 'direct and individual concern' — wrong qualification of facts.

Second plea: error in law in interpreting the final limb of Article 263 (4) TFEU and the requisite and notion of regulatory act which does not entail implementing measures — wrong qualification of facts and distortion of evidence.

Third plea: wrong qualification of facts and distortion of evidence.

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