

Re:

Reference for a preliminary ruling — *Krajský súd v Prešove* — Interpretation of Article 6 EU and Article 1 of the Protocol to the Convention on the Protection of Human Rights and Fundamental Freedoms, signed in Paris on 20 March 1952 — Property law — National legislation under which electrical installations may be placed on private land without the owners being entitled to compensation

Operative part of the order

The Court of Justice of the European Communities clearly has no jurisdiction to answer the questions referred by the Krajský súd v Prešove V by decisions of 2 May and 21 July 2006.

(¹) OJ C 249 of 14.10.2006.

Action brought on 13 December 2006 — Commission of the European Communities v Italian Republic

(Case C-503/06)

(2007/C 82/23)

Language of the case: Italian

Parties

Applicant: Commission of the European Communities (represented by: D. Recchia, Agent)

Defendant: Italian Republic

Form of order sought

— Declare that, since the Regione Liguria has adopted and applies rules concerning authorisation to derogate from the system of protection for wild birds which fail to satisfy the conditions laid down in Article 9 of Directive 79/409/EEC (¹), the Italian Republic has failed to fulfil its obligations under Article 9 of that directive.

— order the Italian Republic to pay the costs.

Pleas in law and main arguments

Following receipt of a complaint, the Commission was apprised of the fact that the Regione Liguria had approved Law No 34 of October 2001 for the purpose of regulating procedures for the adoption of derogations from the system of protection for wild birds provided for under Article 9 of the abovementioned directive. That regional law was amended by Regional Law No 31 of 13 August 2002.

In the Commission's opinion, Regional Law No 34/2001, as amended, authorises the lawful hunting of bird species protected under that directive in so far it:

- identifies generally and in the abstract and without any time limitation the species which are subject to the derogation, whereas the derogation constitutes an exceptional regulatory measure to be adopted upon verification that certain conditions of a scientific nature are met;
- does not lay down an obligation, as regards individual derogation measures, to state one of the abstract reasons why it is possible to grant a derogation under Article 9 of the directive and does not lay down an obligation to explain the practical reason why a particular measure is dictated by the need relied upon as an abstract reason.
- it fails to provide that checks are to be made to ensure that no other satisfactory solutions are available or to provide any indication of the authority empowered to declare that the conditions under Article 9 of the directive are satisfied.

The fact that Regional Law No 34/2001, as amended, is incompatible with the directive is reflected in the specific measures authorising hunting, which fail to establish that no other satisfactory solutions are available and fail to mention either the abstract reason for which or the specific grounds on which the derogation is necessary.

On 31 October 2006, after the expiry of the period prescribed in the reasoned opinion, the Regione Liguria repealed Regional Law No 34/2001, as amended, by Regional Law No 35/2006 of 31 October 2006 and adopted Regional Law No 36/2006, which authorises hunting derogations that disclose the same incompatibilities with Article 9 of the abovementioned directive as those complained of above relating to the earlier regional legal framework.

(¹) Council Directive 79/409/EEC of 2 April 1979 concerning the conservation of wild birds, OJ 1979 L 103, p. 1.

Reference for a preliminary ruling from the Tribunale di Genova (Italy) lodged on 18 January 2007 — Autostrada dei Fiori SpA, AISCAT, Associazione Nazionale dei Gestori delle Autostrade v Government of the Italian Republic, Ministry of Infrastructure and Transport, Ministry of the Economy and Finance and Azienda Nazionale Autonoma delle Strade (ANAS)

(Case C-12/07)

(2007/C 82/24)

Language of the case: Italian

Referring court

Tribunale di Genova