



Reports of Cases

Case C-290/15

Patrice D'Oultremont and Others

v

Région wallonne

(Request for a preliminary ruling from the
Conseil d'État (Belgium))

(Reference for a preliminary ruling — Assessment of the effects of certain plans and programmes on the environment — Directive 2001/42/EC — Articles 2(a) and 3(2)(a) — Definition of ‘plans and programmes’ — Conditions concerning the installation of wind turbines laid down by a regulatory order — Provisions concerning, inter alia, safety, inspection, site restoration and financial collateral and permitted noise levels set having regard to area use))

Summary — Judgment of the Court (Second Chamber), 27 October 2016

Environment — Assessment of the effects of certain plans and programmes on the environment — Directive 2001/42 — Plan and programme — Definition — Conditions concerning the installation of wind turbines laid down by regulatory order — Included

(European Parliament and Council Directive 2001/42, Arts 2(a) and 3(2)(a))

Articles 2(a) and 3(2)(a) of Directive 2001/42 on the assessment of the effects of certain plans and programmes on the environment must be interpreted as meaning that a regulatory order containing various provisions on the installation of wind turbines which must be complied with when administrative consent is granted for the installation and operation of such installations comes within the notion of ‘plans and programmes’, within the meaning of that directive.

The assessment of the criteria laid down in those provisions for determining whether an order may come within that definition must in particular be carried out in the light of the objective of that directive, which is to make decisions likely to have significant environmental effects subject to an environmental assessment.

Furthermore, it is necessary to avoid strategies which may be designed to circumvent the obligations laid down in Directive 2001/42 by splitting measures, thereby reducing the practical effect of that directive. Having regard to that objective, the notion of ‘plans and programmes’ relates to any measure which establishes, by defining rules and procedures for scrutiny applicable to the sector concerned, a significant body of criteria and detailed rules for the grant and implementation of one or more projects likely to have significant effects on the environment.

In that regard, technical standards, operating conditions, the prevention of accidents and fires, noise level standards, restoration and financial collateral for wind turbines have a sufficiently significant importance and scope in the determination of the conditions applicable to the sector concerned and

the choices, in particular related to the environment, available under those standards must determine the conditions under which actual projects for the installation and operation of wind turbine sites may be authorised in the future.

(see paras 47-50, 54, operative part)