

JUDGMENT OF THE COURT

19 September 2000 *

In Case C-287/98,

REFERENCE to the Court under Article 177 of the EC Treaty (now Article 234 EC) by the Tribunal d'Arrondissement de Luxembourg (Luxembourg) for a preliminary ruling in the proceedings pending before that court between

State of the Grand Duchy of Luxembourg

and

Berthe Linster,

Aloyse Linster,

Yvonne Linster,

on the interpretation of Council Directive 85/337/EEC of 27 June 1985 on the assessment of the effects of certain public and private projects on the environment (OJ 1985 L 175, p. 40), in particular Article 1(5) thereof, and of Articles 177 and 189 of the EC Treaty (now Article 249 EC) as regards the effect to be accorded to that directive,

* Language of the case: French.

THE COURT,

composed of: G.C. Rodríguez Iglesias, President, J.C. Moitinho de Almeida, L. Sevón (Rapporteur) and R. Schintgen, Presidents of Chambers, P.J.G. Kapteyn, C. Gulmann, P. Jann, H. Ragnemalm, M. Wathelet, V. Skouris and F. Macken, Judges,

Advocate General: P. Léger,
Registrar: L. Hewlett, Administrator,

after considering the written observations submitted on behalf of:

- the State of the Grand Duchy of Luxembourg, by T. Frieders-Scheifer and P. Kinsch, of the Luxembourg Bar,
- Berthe Linster, Aloyse Linster and Yvonne Linster, by M. Elvinger, of the Luxembourg Bar,
- the United Kingdom Government, by J.E. Collins, Assistant Treasury Solicitor, acting as Agent, and D. Wyatt QC, and
- the Commission of the European Communities, by P. Stancanelli, of its Legal Service, and O. Couvert-Castéra, a national civil servant on secondment its Legal Service, acting as Agents,

having regard to the Report for the Hearing,

after hearing the oral observations of the State of the Grand Duchy of Luxembourg, of Berthe Linster, Aloyse Linster and Yvonne Linster, of the United Kingdom Government and of the Commission at the hearing on 12 October 1999,

after hearing the Opinion of the Advocate General at the sitting on 11 January 2000,

gives the following

Judgment

- 1 By order of 15 July 1998, received at the Court on 27 July 1998, the Tribunal d'Arrondissement de Luxembourg (District Court, Luxembourg) referred to the Court for a preliminary ruling under Article 177 of the EC Treaty (now Article 234 EC) a number of questions on the interpretation of Council Directive 85/337/EEC of 27 June 1985 on the assessment of the effects of certain public and private projects on the environment (OJ 1985 L 175, p. 40; hereinafter 'the Directive'), in particular Article 1(5) thereof, and of Articles 177 and 189 of the EC Treaty (now Article 249 EC) as regards the effect to be accorded to the Directive.
- 2 Those questions were raised in proceedings between the State of the Grand-Duchy of Luxembourg and Berthe Linster, Aloyse Linster and Yvonne Linster (hereinafter 'the Linsters') concerning the expropriation of parcels of land belonging to them for the purpose of construction of Section II — Hellange to Mondorf-les-Bains — of the motorway link between the South Distributor Road and the German road network (hereinafter 'the motorway link with Saarland').

Relevant provisions

The Directive

- 3 As stated in Article 1(1) thereof, the Directive applies to the assessment of the environmental effects of those public and private projects which are likely to have significant effects on the environment.
- 4 Article 1(2) of the Directive defines ‘project’ as:
 - ‘— the execution of construction works or of other installations or schemes,
 - other interventions in the natural surroundings and landscape including those involving the extraction of mineral resources’.
- 5 Article 1(5) provides that the Directive ‘shall not apply to projects the details of which are adopted by a specific act of national legislation, since the objectives of [the] Directive, including that of supplying information, are achieved through the legislative process’.

6 Article 2(1) states:

‘Member States shall adopt all measures necessary to ensure that, before consent is given, projects likely to have significant effects on the environment by virtue, *inter alia*, of their nature, size or location are made subject to an assessment with regard to their effects.

These projects are defined in Article 4.’

7 Under Article 4(1), projects of the classes listed in Annex I to the Directive are as a rule to be made subject to an assessment in accordance with Articles 5 to 10. Those projects include the ‘construction of motorways, express roads...’, referred to in paragraph 7 of Annex I.

8 In essence, Article 5 of the Directive specifies the information to be provided as a minimum by the developer; Article 6 requires the Member States to take the measures necessary to ensure that the authorities and members of the public concerned are informed and are able to express an opinion before the project is initiated; Article 8 requires the competent authorities to take into consideration information gathered pursuant to Articles 5 and 6; and Article 9 imposes an obligation on the competent authorities to inform the public of the decision taken and any conditions attached to it.

9 More specifically, Article 5(1) and (2) provides:

‘1. In the case of projects which, pursuant to Article 4, must be subjected to an environmental impact assessment in accordance with Articles 5 to 10, Member States shall adopt the necessary measures to ensure that the developer supplies in an appropriate form the information specified in Annex III inasmuch as:

- (a) the Member States consider that the information is relevant to a given stage of the consent procedure and to the specific characteristics of a particular project or type of project and of the environmental features likely to be affected;
- (b) the Member States consider that a developer may reasonably be required to compile this information having regard *inter alia* to current knowledge and methods of assessment.

2. The information to be provided by the developer in accordance with paragraph 1 shall include at least:

- a description of the project comprising information on the site, design and size of the project,
- a description of the measures envisaged in order to avoid, reduce and, if possible, remedy significant adverse effects,

- the data required to identify and assess the main effects which the project is likely to have on the environment,

- a non-technical summary of the information mentioned in indents 1 to 3.'

10 Annex III to the Directive lists the information to be supplied by the developer. That information includes a description of the project (paragraph 1), an outline of the main alternatives studied and the reasons for the choice made (paragraph 2), a description of the aspects of the environment likely to be significantly affected and of the significant effects likely to arise (paragraphs 3 and 4) and a description of the measures envisaged to prevent, reduce and, where possible, offset any significant adverse effects on the environment (paragraph 5).

11 Article 6(2) of the Directive provides:

'Member States shall ensure that:

- any request for development consent and any information gathered pursuant to Article 5 are made available to the public,

- the public concerned is given the opportunity to express an opinion before the project is initiated.'

Luxembourg law

- 12 It appears from the facts set out by the national court that, by the same Law, the Luxembourg legislature simultaneously transposed the Directive in part, by requiring an environmental impact study to be carried out for the construction of certain roads, and authorised in principle the construction of the motorway link with Saarland.
- 13 The Directive was thus transposed into Luxembourg law by, *inter alia*, the Law of 31 July 1995, amending and supplementing the Law of 16 August 1967, as amended, for the establishment of a comprehensive communications network and a road fund (*Mémorial A* 1995, p. 1810; hereinafter ‘the 1995 Law’).
- 14 Article 14a of the Law of 16 August 1967 for the establishment of a comprehensive communications network and a road fund (*Mémorial A* 1967, p. 868; hereinafter ‘the 1967 Law’), as amended by the 1995 Law, thus provides that the inclusion of any construction project in the body of the Law is subject to prior preparation of a study assessing its impact on the natural and human environment. The study must, in particular, explain why it is desirable to carry out the construction project and explain the choice of plan or alternative plans. It is also provided that there must be public consultation before the route is decided on.
- 15 The 1995 Law also amended Article 6 of the 1967 Law which, in its new wording, provides for the South Distributor Road, connecting up the main towns in the mining basin from Rodange to Bettembourg, and linking with the German and Belgian road networks at the respective borders.
- 16 When the draft of the 1995 Law was debated, the question was raised as to whether the proposed new version of Article 14a of the 1967 Law should apply

to the construction of the motorway link with Saarland. However, an amendment to that effect was rejected by the deputies.

- 17 It is apparent from examination of the documents relating to the adoption of the 1995 Law that, when the draft Law was voted on, several possible routes for the motorway link with Saarland (northern route option and southern route option) were still under discussion. When the deputies passed the draft Law on 13 July 1995, they simultaneously adopted Motion No 2, calling on the Government to adopt the southern option (*Chamber of Deputies, Minutes of Public Sitings, Ordinary Session 1994-95, 64th Sitting, Thursday 13 July 1995, p. 3390 (text) and p. 3476 (vote)*).
- 18 That was the option selected by the Government when, by Grand-Ducal Regulation of 21 November 1996 approving plans of parcels of land subject to compulsory acquisition and lists of the owners of those parcels with a view to the construction of Section II — Hellange to Mondorf-les-Bains — of the Saarland Link (*Mémorial A 1996, p. 2468; hereinafter 'the 1996 Regulation'*), it decided on the definitive route to be taken by the motorway link with Saarland.

Main proceedings

- 19 For the purpose of constructing the motorway link with Saarland, the State of the Grand Duchy of Luxembourg commenced proceedings before the Tribunal d'Arrondissement de Luxembourg for the expropriation of plots of land situated at Hellange, in the Municipality of Frisange, against the respondents, the owners of those plots.
- 20 In defence, the respondents contended in particular that the 1995 Law and the 1996 Regulation had been adopted in breach of Articles 5(1) and 6(2) of the

Directive, in that the project had not been preceded by an environmental impact study or a public inquiry as required by the Directive.

- 21 In its order for reference, the Tribunal d'Arrondissement explains that its task in the proceedings pending before it is to review whether the statutory expropriation formalities have been complied with and that such review may include collateral review of a regulatory administrative measure such as the 1996 Regulation.
- 22 The Tribunal d'Arrondissement is uncertain whether it 'can ensure compliance with the Directive by verifying compliance with the requirements of the Directive, irrespective of whether the Directive, which was not transposed within the prescribed period, has direct effect or whether such verification involves appraisal of the direct effect of the Directive'. It refers in that regard to Case C-69/89 *Nakajima v Council* [1991] ECR I-2069, in which the Court reviewed the legality of the basic Community anti-dumping regulation (Council Regulation (EEC) No 2423/88 of 11 July 1988 on protection against dumped or subsidised imports from countries not members of the European Economic Community (OJ 1988 L 209, p. 1)) in the light of the GATT Anti-Dumping Code (Agreement on Implementation of Article VI of the General Agreement on Tariffs and Trade, approved on behalf of the Community by Council Decision 80/271/EEC of 10 December 1979 concerning the conclusion of the Multilateral Agreements resulting from the 1973 to 1979 trade negotiations (OJ 1980 L 71, p. 1)) and distinguished the question of direct effect from that of collateral review of legality.
- 23 The Tribunal d'Arrondissement points out that, under Article 27 of the 1967 Law, as amended, its decision on the application for expropriation and on compensation is not amenable to remedy under domestic law, so that by the third paragraph of Article 177 of the Treaty it is required to refer for a preliminary ruling the first, third, fourth, fifth and sixth questions set out in the next paragraph.

- 24 In those circumstances, the Tribunal d'Arrondissement de Luxembourg decided to stay proceedings and refer the following questions to the Court for a preliminary ruling:

- '(1) Must Articles 177 and 189 of the EEC Treaty be interpreted as meaning that a court against whose decision there is no judicial remedy under national law and which is called on to verify the legality of a procedure for the expropriation in the public interest of immovable property belonging to a private individual may find that the assessment of the impact of the construction of a motorway required by Article 5(1) of Council Directive 85/337/EEC of 27 June 1985 on the assessment of the effects of certain public and private projects on the environment, being a project of the kind referred to in Article 4(1) thereof, has not been carried out, that the information gathered in accordance with Article 5 has not been made available to the public and that the members of the public concerned have not had an opportunity to express an opinion before the project is initiated, contrary to the requirements of Article 6(2) — the directive not having been fully transposed into national law despite the expiry of the period laid down for that purpose — or does such a finding involve an appraisal of the direct effect of the directive, so that the court is required to refer a question on the matter to the Court of Justice of the European Communities?
- (2) If the Court of Justice, in reply to the first question, holds that the court against whose decision there is no judicial remedy under national law is under an obligation to seek a preliminary ruling from the Court of Justice, then the question referred is as follows:

May the abovementioned directive be applied to a dispute concerning the expropriation in the public interest of immovable property belonging to a private individual and may the court, called on to verify the legality of the expropriation procedure, find that, contrary to Article 5(1) and Article 6(2), no environmental impact assessment has been carried out, that the information gathered in accordance with Article 5 has not been made

available to the public and that the members of the public concerned have not had an opportunity to express an opinion before the construction of a motorway, a project of the kind referred to in Article 4(1), is initiated?

- (3) Does the act of national legislation mentioned in Article 1(5) of the abovementioned directive have an independent meaning in Community law or must it be defined in accordance with domestic law?
- (4) If the term “specific act of national legislation” has an independent meaning in Community law, is a measure adopted by the parliament after public parliamentary debate to be regarded as an act of national legislation within the meaning of Article 1(5) of the directive?
- (5) Does the term “project” as used in Article 1(5) of the abovementioned directive, the details of which are adopted by a specific act of national legislation, have an independent meaning in Community law or must it be defined in accordance with domestic law?
- (6) If the term “project” as used in Article 1(5) of the directive, the details of which are adopted by a specific act of national legislation, has an independent meaning in Community law, is the project adopted by parliament decision, after public parliamentary debate, to construct a motorway to join two other roads, without laying down the route of the motorway to be built, to be regarded as a project to which the directive does not apply?’

Question 1

- 25 By its first question, the Tribunal d'Arrondissement is essentially asking whether a national court, called on to verify the legality of a procedure for expropriation in the public interest, in connection with the construction of a motorway, of immovable property belonging to a private individual, may review whether the national legislature has kept within the limits of the discretion set by the Directive, in particular where the prior assessment of the environmental impact of the project has not been carried out, the information gathered in accordance with Article 5 has not been made available to the public and the members of the public concerned have not had an opportunity to express an opinion before the project is initiated, contrary to the requirements of Article 6(2) of the Directive.
- 26 The State of the Grand-Duchy of Luxembourg considers that a national court may find that substantive provisions of a directive have been infringed in the context of an expropriation procedure only if: (i) when examining the legality of the expropriation procedure, national law allows it to carry out a collateral review of the legality of the consent procedure for the project at issue; and (ii) the provision of the directive which it is called on to apply in favour of the private individual in question has direct effect and consequently confers rights on him.
- 27 In the present case, the Linsters could rely on the Directive only if they demonstrated that the alleged failure to comply with its provisions infringed a right which the Directive conferred on them. Such a situation is very different from that in *Nakajima*, cited above, which involved a plea that a provision of a Community anti-dumping regulation was incompatible with an international treaty and not a claim that the treaty should be applied by way of substitution for that provision.
- 28 The Linsters contend that taking account of an untransposed directive does not necessarily involve an appraisal of its direct effect. Such direct effect is necessary only in order for the directive to have an effect by way of substitution for an

existing legal norm. On the other hand, it is the principle of primacy which requires the national court to disapply national legislation contrary to Community law, even where the Community provision at issue lacks direct effect.

- 29 The United Kingdom Government suggests that the question submitted should be answered by reference to the judgment in Case C-72/95 *Kraaijeveld and Others v Gedeputeerde Staten van Zuid-Holland* [1996] ECR I-5403.
- 30 The Commission refers to Case 8/81 *Becker v Finanzamt Münster-Innenstadt* [1982] ECR 53 and takes the view that, where the provisions of a directive are unconditional and sufficiently precise, they must, on expiry of the time-limit laid down for their transposition, be accorded direct effect, the consequence of which is that those provisions may be relied on to challenge any inconsistent national provision, in particular in proceedings before the courts of the Member States.

Findings of the Court

- 31 With regard to the right of a national court, responsible for reviewing the legality of a procedure for the expropriation in the public interest of property belonging to private individuals, to take account of a directive which has not been fully transposed, notwithstanding the expiry of the time-limit laid down for that purpose, in order to review whether certain formalities laid down by that directive have been complied with, it should be recalled that, according to the third paragraph of Article 189 of the Treaty, 'A directive shall be binding, as to the result to be achieved, upon each Member State to which it is addressed, but shall leave to the national authorities the choice of form and methods'.
- 32 In that regard the Court has held in a number of cases that it would be incompatible with the binding effect conferred on directives by that provision to exclude, as a matter of principle, any possibility for those concerned to rely on the

obligation which directives impose. Particularly where the Community authorities have, by directive, imposed on Member States the obligation to pursue a particular course of conduct, the effectiveness of such an act would be diminished if individuals were prevented from relying on it in legal proceedings and if national courts were prevented from taking it into consideration as a matter of Community law in determining whether the national legislature, in exercising its choice as to the form and methods for implementing the directive, had kept within the limits of its discretion set by the directive (see Case 51/76 *Verbond van Nederlandse Ondernemingen v Inspecteur der Invoerrechten en Accijnzen* [1977] ECR 113, paragraphs 22, 23 and 24, *Kraaijeveld and Others*, cited above, paragraph 56, and Case C-435/97 *WWF and Others v Autonome Provinz Bozen and Others* [1999] ECR I-5613, paragraph 69).

- 33 As regards, more specifically, the limits of the discretion set by Directive 85/337, the Member States are required, under Article 2 thereof, to adopt all measures necessary to ensure that projects likely to have significant effects on the environment are made subject to an assessment with regard to their effects before consent is given.
- 34 Construction of a motorway is a project falling within a class in Annex I, which means that, in accordance with Article 4(1) of the Directive, it must be the subject of an assessment.
- 35 Article 5 of the Directive requires the Member States to adopt the necessary measures to ensure that the developer supplies information, the minimum items of which are specified in Article 5(2). Under Article 6(2), they must ensure that there is public access to the request for consent to carry out the project and to the information supplied by the developer, and that members of the public have the opportunity to express an opinion before the project is initiated.
- 36 It is true that Article 5(1) of the Directive allows the Member States some discretion in implementing the Community provision at national level since it

states that the Member States are to adopt the necessary measures to ensure that the developer supplies the required information where they consider, first, that the information is relevant to a given stage of the consent procedure and to the specific characteristics of a particular project or type of project and, second, that a developer may reasonably be required to compile that information.

- 37 However, this discretion, which a Member State may exercise when transposing that provision into national law, does not preclude judicial review of the question whether it has been exceeded by the national authorities (see, in particular, *Verbond van Nederlandse Ondernemingen*, cited above, paragraphs 27, 28 and 29, and *Kraaijeveld and Others*, cited above, paragraph 59).
- 38 It follows that the provisions of the Directive may be taken into account by national courts in order to review whether the national legislature has kept within the limits of the discretion set by it.
- 39 The answer to the first question must therefore be that a national court, called on to examine the legality of a procedure for the expropriation in the public interest, in connection with the construction of a motorway, of immovable property belonging to a private individual, may review whether the national legislature kept within the limits of the discretion set by the Directive, in particular where prior assessment of the environmental impact of the project has not been carried out, the information gathered in accordance with Article 5 has not been made available to the public and the members of the public concerned have not had an opportunity to express an opinion before the project is initiated, contrary to the requirements of Article 6(2) of the Directive.

Question 2

- 40 In view of the answer to the first question, there is no need to answer the second question.

Questions 3 and 5

- 41 By its third and fifth questions, the national court essentially asks whether the terms 'specific act of national legislation' and 'project' used in Article 1(5) of the Directive must be given an autonomous interpretation.
- 42 All the parties which have submitted observations to the Court consider that the principles of autonomous and uniform interpretation of Community law dictate an answer in the affirmative.

Findings of the Court

- 43 The need for uniform application of Community law and the principle of equality require that the terms of a provision of Community law which makes no express reference to the law of the Member States for the purpose of determining its meaning and scope must normally be given an autonomous and uniform interpretation throughout the Community; that interpretation must take into

account the context of the provision and the purpose of the legislation in question (Case 327/82 *Ekro v Produktschap voor Vee en Vlees* [1984] ECR 107, paragraph 11).

- 44 The answer to the third and fifth questions must therefore be that the terms 'specific act of national legislation' and 'project' used in Article 1(5) of the Directive must be given an autonomous interpretation.

Questions 4 and 6

- 45 By its fourth and sixth questions, which should be considered together, the national court essentially asks whether, on a proper construction of Article 1(5) of the Directive, a measure adopted by a parliament after public parliamentary debate is to be regarded as a specific act of national legislation within the meaning of that provision and whether the Directive is to apply to a project, adopted by a parliament decision, after public parliamentary debate, to construct a motorway but without laying down its route.
- 46 According to the State of the Grand-Duchy of Luxembourg, those questions are meant to ascertain the degree of detail with which a project must be adopted by a legislative act in order to be excluded from the scope of the Directive. In its submission, it would be excessive to require every detail, however insignificant, to be dealt with by the legislative act. It considers that, in this case, the measures adopted, taken together, amount to a specific act of national legislation, since the adoption of the 1995 Law was accompanied by a motion by which the Parliament called on the Government to adopt a specific route and the Government, by the 1996 Regulation, adopted an implementing regulation which accorded with the Parliament's wishes.

47 The Linsters contend that the criteria to be taken into account are, first, whether parliamentary proceedings are organised and conducted in such a way as to be capable of achieving the objectives of the Directive, including that of supplying information, and second, whether the legislative act is specific to the construction project. They observe that the 1995 Law was not specific to the project to construct the motorway link with Saarland. Nor could the objectives of the Directive, in particular the supplying of information, be achieved by that measure, since it merely granted consent in principle, leaving it to a decision to be taken at a subsequent stage of the procedure and falling exclusively within the competence of the executive to lay down the definitive route of the motorway.

48 The United Kingdom Government and the Commission likewise emphasise that the legislative process must enable the objectives pursued by the Directive to be achieved, including taking account of the information obtained following the public consultation. The act should enable the details of the project to be adopted.

Findings of the Court

49 Article 1(5) of the Directive should be interpreted having regard to the objectives of the Directive and to the fact that, since it is a provision limiting the Directive's field of application, it must be interpreted restrictively.

50 The justification for the exception is set out in Article 1(5) itself. That provision states that the Directive does not apply 'since the objectives of [the] Directive, including that of supplying information, are achieved through the legislative process'.

- 51 It follows from that provision that, where the objectives of the Directive, including that of supplying information, are achieved through a legislative process, the Directive does not apply to the project in question.
- 52 As is clear from Article 2(1), the Directive's fundamental objective is that, before consent is given, projects likely to have significant effects on the environment by virtue, *inter alia*, of their nature, size or location should be made subject to an assessment with regard to their effects.
- 53 According to the sixth recital in the preamble to the Directive, the 'assessment must be conducted on the basis of the appropriate information supplied by the developer, which may be supplemented by the authorities and by the people who may be concerned by the project in question'.
- 54 Thus, it is only where the legislature has available to it information equivalent to that which would be submitted to the competent authority in an ordinary procedure for authorising a project that the objectives of the Directive may be regarded as having been achieved through the legislative process.
- 55 It should be remembered that, under Article 5(2) of the Directive and Annex III thereto, the minimum information to be supplied by the developer is to consist of a description of the project comprising information on the site, design and size of the project, a description of the measures envisaged in order to avoid, reduce and, if possible, remedy significant adverse effects, and the data required to identify and assess the main effects which the project is likely to have on the environment.

- 56 As regards the degree of precision required of the legislative act, Article 1(5) of the Directive requires it to be a specific act adopting the details of the project. Its very wording must demonstrate that the objectives of the Directive have been achieved with regard to the project in question.
- 57 The Court has thus held that the details of a project cannot be considered to be adopted by a Law, for the purposes of Article 1(5) of the Directive, if the Law does not include the elements necessary to assess the environmental impact of the project but, on the contrary, requires a study to be carried out for that purpose, which must be drawn up subsequently, and if the adoption of other measures are needed in order for the developer to be entitled to proceed with the project (*WWF and Others*, cited above, paragraph 62).
- 58 In certain specific circumstances, it is possible for the objectives of the Directive to have been met where the route of a planned motorway has not been laid down in the legislative act, for example where several alternative routes were studied in detail, on the basis of information supplied by the developer and possibly supplemented by the authorities and members of the public liable to be concerned by the project, and those alternatives were recognised by the legislature as having an equivalent environmental impact. It is for the national court to determine whether that was so in the present case.
- 59 The answer to the fourth and sixth questions must therefore be that, on a proper construction of Article 1(5) of the Directive, a measure adopted by a parliament after public parliamentary debate constitutes a specific act of national legislation within the meaning of that provision where the legislative process has enabled the objectives pursued by the Directive, including that of supplying information, to be achieved, and the information available to the parliament at the time when the details of the project were adopted was equivalent to that which would have been submitted to the competent authority in an ordinary procedure for granting consent for a project.

Costs

- ⁶⁰ The costs incurred by the United Kingdom Government and the Commission, which have submitted observations to the Court, are not recoverable. Since these proceedings are, for the parties to the main proceedings, a step in the action pending before the national court, the decision on costs is a matter for that court.

On those grounds,

THE COURT,

in answer to the questions referred to it by the Tribunal d'Arrondissement de Luxembourg by order of 15 July 1998, hereby rules:

1. A national court, called on to examine the legality of a procedure for the expropriation in the public interest, in connection with the construction of a motorway, of immovable property belonging to a private individual, may review whether the national legislature kept within the limits of the discretion set by Council Directive 85/337/EEC of 27 June 1985 on the assessment of the effects of certain public and private projects on the environment, in particular where prior assessment of the environmental impact of the project has not been carried out, the information gathered in accordance with Article 5 has not been made available to the public and the members of the public concerned have not had an opportunity to express an opinion before the project is initiated, contrary to the requirements of Article 6(2) of Directive 85/337.

2. The terms 'specific act of national legislation' and 'project' used in Article 1(5) of Directive 85/337 must be given an autonomous interpretation.

3. On a proper construction of Article 1(5) of Directive 85/337, a measure adopted by a parliament after public parliamentary debate constitutes a specific act of national legislation within the meaning of that provision where the legislative process has enabled the objectives pursued by Directive 85/337, including that of supplying information, to be achieved, and the information available to the parliament at the time when the details of the project were adopted was equivalent to that which would have been submitted to the competent authority in an ordinary procedure for granting consent for a project.

Rodríguez Iglesias	Moitinho de Almeida	Sevón
Schintgen	Kapteyn	Gulmann
Jann	Ragnemalm	Wathelet
Skouris	Macken	

Delivered in open court in Luxembourg on 19 September 2000.

R. Grass

G.C. Rodríguez Iglesias

Registrar

President