



Reports of Cases

Judgment of the Court (First Chamber) of 31 May 2018 — Commission v Poland

(Case C-526/16)¹

(Failure of a Member State to fulfil obligations — Directive 2011/92/EU — Assessment of the effects on the environment of drilling to locate or search for shale gas — Deep drillings — Selection criteria — Determination of thresholds)

1. *Environment — Assessment of the effects of certain projects on the environment — Directive 2011/92 — Making the projects listed in Annex II to the Directive subject to assessment — Deep drilling projects — Meaning — Locating or searching for shale gas deposits — Included*

(European Parliament and Council Directive 2011/92, Art. 4(2) and Annex II, point 2, (d))

(see paras 54-57)

2. *Environment — Assessment of the effects of certain projects on the environment — Directive 2011/92 — Making the projects listed in Annex II to the directive subject to assessment — Member States' discretion — Limits — Risk of substantial or irreversible transformation of environmental factors — Obligation of the competent authority to carry out an assessment prior to granting consent — No such assessment carried out — Failure to fulfil obligations*

(European Parliament and Council Directive 2011/92, Arts 2(1), 4(2) and (3) and Annexes II and III)

(see paras 60, 61, 65-67, 75, 78, 79, operative part)

Operative part

The Court:

1. Declares that, by excluding projects to locate or search for shale gas deposits by means of drilling to a depth of 5 000 metres — with the exception of drilling to a depth of more than 1 000 metres in areas intended for water extraction, areas containing protected inland waters and nature protection areas in the form of national parks, nature reserves, landscape parks and 'Natura 2000' protection areas and the contiguous protection zones — from the procedure for

¹ OJ C 14, 16.1.2017.

determining whether an environmental impact assessment is necessary, the Republic of Poland has failed to fulfil its obligations under the combined provisions of Articles 2(1) and 4(2) and (3) of, and Annexes II and III to, 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;

2. Orders the Republic of Poland to bear its own costs and to pay those incurred by the European Commission.