

## ANNEX

### Main judgments of the Court mentioned in the booklet sorted by the date of publication

#### 1995

##### **Judgment of the Court of 11 August 1995, Commission v. Federal Republic of Germany, Case C-431/92**

Action for failure to fulfil obligations - National implementing measures adopted out of time waiving the obligation for an assessment in respect of consent procedures initiated after the time-limit for implementation - Date of initiation of the procedure

<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:61992J0431:EN:HTML>

#### 1996

##### **Judgment of the Court of 24 October 1996, Kraaijeveld and Others, Case C-72/95**

Reference for a preliminary ruling - Community law - Multilingual texts - Uniform interpretation - Differences between the various language versions - Purpose and general scheme of the rules in question to be taken as the basis for reference - "Canalization and flood-relief works" within the meaning of point 10(e) of Annex II - Dyke work along navigable waterways - Definition encompassing modification of existing dykes - Assessment of projects in classes included in Annex II - Member States' discretion - Scope and limits - Duty of national courts - Examination of court's own motion whether the national authorities have remained within the limits of their discretion - Need to ensure effectiveness of the directive where limits not observed

<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:61995J0072:EN:HTML>

By judgment of 8 March 1995, the Nederlandse Raad van State (Netherlands State Council) referred to the Court for a preliminary ruling four questions on the interpretation of Directive 85/337/EEC and on the duty of national courts to ensure that a directive having direct effect is complied with although no individual has invoked it.

The questions were raised in proceedings brought by Aannemersbedrijf P.K. Kraaijeveld BV and Others (hereinafter "Kraaijeveld") for annulment of a decision of 18 May 1993 by which the South Holland Provincial Executive approved a zoning plan entitled "Partial modification of zoning plans in connection with dyke reinforcement" adopted by the Sliedrecht Municipal Council pursuant to the Wet op de ruimtelijke ordening (Regional Development Law).

Kraaijeveld contested the zoning plan adopted on 23 November 1992 by the Sliedrecht Municipal Council, in so far as it concerned the Merwede dyke, before the South Holland Provincial Executive which, by decision of 18 May 1993, nevertheless approved the plan. On 20 July 1993, Kraaijeveld brought an action before the Raad van State seeking annulment of that decision.

According to the new plan, the waterway to which Kraaijeveld has access will no longer be linked to navigable waterways; the removal of access to navigable waterways would be ruinous to Kraaijeveld's business, whose economic activity is related to waterways ("natte waterbouw"). The Nederlandse Raad van State observed that no environment impact assessment was made because the size of the works was less than the minimum laid down by national legislation.

The Nederlandse Raad van State decided to refer to the Court of Justice for a preliminary ruling the following four questions:

*"1. Must the expression 'canalization and flood-relief works' in Annex II to Directive 85/337/EEC be interpreted as including certain types of work on a dyke running alongside waterways?*

*2. Having regard in particular to the terms 'projects' and 'modifications to development projects' employed in the directive, does it make any difference to the answer to Question 1 whether what is involved is:*

*(a) the construction of a new dyke; (b) the relocation of an existing dyke; (c) the reinforcement and/or widening of an existing dyke; (d) the replacement in situ of a dyke whether or not the new dyke is stronger and/or wider than the old one; or (e) a combination of two or more of (a) to (d) above?*

3. Must Article 2(1) and Article 4(2) of the directive be interpreted as meaning that where a Member State in its national implementing legislation has laid down specifications, criteria or thresholds for a particular project covered by Annex II in accordance with Article 4(2) of the directive, but those specifications, criteria or thresholds are incorrect, Article 2(1) requires that an environmental impact assessment be made if the project is likely to have 'significant effects on the environment by virtue inter alia of [its] nature, size or location' within the meaning of that provision?

4. If Question 3 is answered in the affirmative, does that obligation have direct effect, that is to say, may it be relied upon by an individual before a national court and must it be applied by the national court even if it was not in fact invoked in the matter pending before that court?"

The Court of Justice ruled that:

"1. The expression "canalization and flood-relief works" in point 10(e) of Annex II to Council Directive 85/337/EEC of 27 June 1985 on the assessment of the effects of certain public and private projects on the environment must be interpreted as including certain types of work on a dyke running alongside waterways.

2. The expression "canalization and flood-relief works" in point 10(e) of Annex II to Directive 85/337 is to be interpreted as including not only construction of a new dyke, but also modification of an existing dyke involving its relocation, reinforcement or widening, replacement of a dyke by constructing a new dyke in situ, whether or not the new dyke is stronger or wider than the old one, or a combination of such works.

3. Article 4(2) of Directive 85/337 and point 10(e) of Annex II must be interpreted as meaning that a Member State which establishes the criteria or thresholds necessary to classify projects relating to dykes at a level such that, in practice, all such projects are exempted in advance from the requirement of an impact assessment exceeds the limits of its discretion under Articles 2(1) and 4(2) of the directive unless all projects excluded could, when viewed as a whole, be regarded as not being likely to have significant effects on the environment.

Where under national law a court must or may raise of its own motion pleas in law based on a binding national rule which have not been put forward by the parties, it must, for matters within its jurisdiction, examine of its own motion whether the legislative or administrative authorities of the Member State have remained within the limits of their discretion under Articles 2(1) and 4(2) of the directive, and take account thereof when examining the action for annulment.

Where that discretion has been exceeded and consequently the national provisions must be set aside in that respect, it is for the authorities of the Member State, according to their respective powers, to take all the general or particular measures necessary to ensure that projects are examined in order to determine whether they are likely to have significant effects on the environment and, if so, to ensure that they are subject to an impact assessment."

The Nederlandse Raad van State delivered its ruling on 20 October 1997. The Raad van State observed that the situation described by the European Court of Justice, where thresholds concerning the construction of dykes were established at such a level that in practice all such projects are exempted in advance from the requirement of an impact assessment, does not appear. The Raad van State concluded that the transposition of the EIA directive into national law regarding the thresholds for dykes by the Besluit milieu-effectrapportage 1994 (Environmental Impact Assessment Decision) was therefore not incorrect.

## **1998**

### **Judgment of the Court of 18 June 1998, Gedeputeerde Staten van Noord-Holland, Case C-81/96**

Reference for a preliminary ruling - Project for which consent was obtained prior to the deadline for transposing the directive into national law - New consent procedure initiated after that deadline - Project subject to obligations relating to environmental impact assessment

<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:61996J0081:EN:HTML>

The reference for a preliminary ruling arose in the course of an action brought by a number of persons concerned challenging the decision of 18 May 1993 whereby the North Holland provincial authorities approved the "Ruigoord 1992" zoning plan, which was adopted by the Municipal Council of Haarlemmerliede en Spaarnwoude on 21 September 1992 under the Wet op de Ruimtelijke Ordening (Staatsblad 1962, p. 286; Town and Country Planning Law). The action was based on the fact that the plan had been authorised without an environmental assessment having been made as required by the directive.

The projects featured in the plan were already contained in the "Landelijk Gebied 1968" zoning plan and in the regional plans known as "Amsterdam-Noordzeekanaalgebied 1979" and "Amsterdam-Noordzeekanaalgebied 1987", the implementation of which never progressed further than raising a portion of the perimeter by sand in the late 1960s. There was no environmental assessment made in connection with those plans prior to consent, as required by the directive. The "Ruigoord 1984" plan drawn up by the Haarlemmerliede en Spaarnwoude Municipal Council on 25 September 1984 designated most of the area in question as being for recreational purposes. The plan was largely turned down by decision of the North Holland provincial authorities on 5 March 1985. The "Ruigoord 1992" plan was intended to replace the "Landelijk Gebied 1968" plan.

The Nederlandse Raad van State (Netherlands State Council) has found that there was no obligation under the relevant national law to make the environmental impact assessment which should in principle have preceded the plan at issue because the latter had been included in earlier development plans. Since it was in doubt as to the compatibility of those national rules with the EIA directive, the Nederlandse Raad van State stayed the proceedings and referred the following question to the Court of Justice for a preliminary ruling:

*"Does Council Directive 85/337/EEC of 27 June 1985 on the assessment of the effects of certain public and private projects on the environment permit consent to be granted for a project mentioned in Annex I to the directive where, in the course of the preparation of the consent, no environmental impact assessment within the meaning of the directive was conducted in a case in which the consent relates to a project for which consent had been granted before 3 July 1988, no use was made of that consent and no environmental impact assessment satisfying the requirements of the directive was conducted in the course of the preparation of that consent?"*

The ECJ ruled that Directive 85/337/EEC "is to be interpreted as not permitting Member States to waive the obligations regarding environmental assessments in the case of projects listed in Annex I of the directive where

- the projects have already been the subject of a consent granted prior to 3 July 1988, the date by which the directive was to have been transposed into national law,
- the consent was not preceded by an environmental assessment in accordance with the requirements of the directive and no use was made of it, and
- a fresh consent procedure was formally initiated after 3 July 1988".

Following this ruling, the Dutch authorities have rectified the "Besluit milieu-effectrapportage 1994" (Environmental Impact Assessment Decision) regarding the transitional regime.

## **1999**

### **Judgement of the Court of 21 January 1999, Commission v. Portuguese Republic, Case C-150/97**

Action for failure to fulfil obligations - National implementing measures, belatedly enacted, waiving the obligation to make an assessment in the case of consent procedures initiated before the entry into force of those measures but after the deadline for transposing the Directive

<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:61997J0150:EN:HTML>

### **Judgment of the Court of 16 September 1999, WWF and Others, Case C-435/97**

Reference for a preliminary ruling - Projects of the classes listed in Annex II to be subject to assessment - Discretion of the Member States - Scope and limits - Possibility for individuals to rely on the relevant provisions to ensure that such discretion is exercised within the proper limits - Assessment procedure - Open to Member States to use an alternative procedure - Projects adopted in detail by specific domestic legislation - Airport which may serve both civil and military purposes but primarily for commercial use

<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:61997J0435:EN:HTML>

### **Judgment of the Court of 21 September 1999, Commission v. Ireland, Case C-392/96**

Action for failure to fulfil obligations - Assessment requirement in respect of projects in the classes listed in Annex II - Discretion of Member States - Failure to take into account the nature, location and cumulative effect of projects - Constitutes a failure to fulfil obligations

<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:61996J0392:EN:HTML>

## **2000**

### **Judgment of the Court of 19 September 2000, Linster, Case C-287/98**

Reference for a preliminary ruling - Assessment procedure - Discretion of the Member States - Power of national courts to review whether the limits of the discretion are observed - Community law - Principle of uniform interpretation- Scope - Projects the details of which are adopted by a specific act of national legislation

<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:61998J0287:EN:HTML>

## **2004**

### **Judgment of the Court of 7 January 2004, Delena Wells, Case C-201/02**

Reference for a preliminary ruling - Obligation on the competent authorities to carry out an assessment before consent is granted – Meaning of consent for the purposes of Article 1(2) – Decision laying down new conditions for a project to resume mining operations – Obligation on the competent authorities to carry out an assessment before consent is granted – Obligation not being directly linked to the performance of another obligation falling, pursuant to the directive, on a third party – Ability of an individual to rely on the directive – Failure to carry out the assessment – Obligation on the authorities to remedy the failure – Scope – Application of the detailed procedural rules under national law

<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:62002J0201:EN:HTML>

### **Judgement of the Court of 10 June 2004, Commission v. Italian Republic, Case C-87/02**

Action for failure to fulfil obligations - Member States – Obligations – Implementation of directives – Failure to implement – Justification based on the fact that failure can be attributed to decentralised authorities – Not permissible - Actions for failure to fulfil obligations – National measures incompatible with Community law – Existence of domestic remedies – No effect on the bringing of an action for failure to fulfil obligations - Projects of the classes listed in Annex II to be made subject to assessment – Member States’ discretion – Scope and limits

<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:62002J0087:EN:HTML>

### **Judgement of the Court of 16 September 2004, Commission v. Kingdom of Spain, Case C-227/01**

Action for failure to fulfil obligations – Community law – Interpretation – Texts in several languages – Uniform interpretation – Differences between the various language versions – General scheme and purpose of the rules in question as the basis for reference – Scope – Doubling of an already existing railway track involving a new track route

<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:62001J0227:EN:HTML>

## **2005**

### **Judgement of the Court of 2 June 2005, Commission v. Italian Republic - *Fossacesia*, Case C-83/03**

Action for failure to fulfil obligations – Projects of the classes listed in Annex II subject to an assessment – Member States’ discretion – Limits – National implementing measures

<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:62003J0083:EN:HTML>

## **2006**

### **Judgment of the Court of 16 March 2006, Commission v. Kingdom of Spain, Case C-332/04**

Action for failure to fulfil obligations - Inter-action between factors likely to be directly and indirectly affected - Obligation to publish the impact statement - Assessment limited to urban development projects outside urban areas - Construction project for a leisure complex at Paterna

<http://curia.europa.eu/jurisp/cgi-bin/form.pl?lang=en>

**Judgement of the Court of 4 May 2006, Barker - *Crystal Palace*, Case C-290/03**

Reference for a preliminary ruling - Grant of consent comprising more than one stage

<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:62003J0290:EN:HTML>

**Judgement of the Court of 9 November 2006, Commission v. Ireland, Case C-216/05**

Action for failure to fulfil obligations - National legislation - Participation by the public in certain assessment procedures upon payment of fees

<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:62005J0216:EN:HTML>

**Judgement of the Court of 23 November 2006, Commission v. Italian Republic, Case C-486/04**

Action for failure to fulfil obligations - Waste recovery - Installation for the production of electricity by the incineration of combustible materials derived from waste and biomass in Massafra (Taranto)

<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:62004J0486:EN:HTML>

**2008**

**Judgment of the Court of 28 February 2008, Abraham and Others, Case C-2/07**

Reference for a preliminary ruling - Airport with a runway more than 2 100 metres in length

<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:62007J0002:EN:HTML>

**Judgement of the Court of 3 July 2008, Commission v. Ireland, Case C-215/06**

Action for failure to fulfil obligations - No assessment of the environmental effects of projects within the scope of Directive 85/337/EEC - Regularisation after the event – retention permission

<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:62006J0215:EN:HTML>

**Judgement of the Court of 25 July 2008, Ecologistas en Acción-CODA , Case C-142/07**

Reference for a preliminary ruling - Refurbishment and improvement works on urban roads

<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:62007J0142:EN:HTML>

**Judgement of the Court of 20 November 2008, Commission v. Ireland, Case C-66/06**

Action for failure to fulfil obligations - Consent given without an assessment

<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:62006J0066:EN:HTML>

**2009**

**Judgment of the Court of 30 April 2009, Mellor, Case C-75/08**

Reference for a preliminary ruling - Obligation to make public the reasons for a determination not to make a project subject to an assessment

<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:62008J0075:EN:HTML>

**Judgement of the Court of 16 July 2009, Commission v. Ireland, Case C-427/07**

Action for failure to fulfil obligations - Access to justice

<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:62007J0427:EN:HTML>

**Judgment of the Court of 15 October 2009, Commission v Kingdom of the Netherlands, Case C-255/08**

Action for failure to fulfil obligations - Determination of thresholds - Size of the project - Incomplete transposition

<http://curia.europa.eu/jurisp/cgi-bin/form.pl?lang=en>

**Judgment of the Court of 15 October 2009, case C-263/08**

Reference for a preliminary ruling – Public participation in environmental decision-making procedures – Right of access to a review procedure to challenge decisions authorising projects likely to have significant effects on the environment

<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:62008J0263:EN:HTML>

**Judgment of the Court of 10 December 2009, Umweltanwalt von Kärnten, Case C-205/08**

Reference for a preliminary ruling - Concept of national court or tribunal - Construction of overhead electrical power lines - Length of more than 15 km -Transboundary constructions - Transboundary power line -Total length exceeding the threshold - Line mainly situated in the territory of a neighbouring Member State - Length of national section below the threshold

<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:62008J0205:EN:HTML>

Alpe Adria, an Italian undertaking, was seeking to construct a 220 kV power line with a power rating of 300 MVA to connect the Italian Rete Elettrica Nazionale SpA network and the Austrian VERBUND-Austrian Power Grid AG network. To that end Alpe Adria requested the Province Government as competent EIA authority at first instance (in the relevant case: the *Kärntner Landesregierung*) to state whether an environmental impact assessment needs to be performed for the construction and operation of that project. On **Austrian territory**, the project comprises an overhead power line approximately **7.4 kilometres long** with a switching substation to be constructed in Weidenburg extending up to the State border through the Kronhofgraben via the Kronhofer Törl. The length of the project on **Italian territory** is approximately **41 kilometres**.

The *Kärntner Landesregierung* decided that no environmental impact assessment was required for the project at issue because the length of the Austrian part of the project did not reach the minimum 15 kilometer threshold defined in the relevant provision of the Austrian Federal Act on Environmental Impact Assessment (EIA Act 2000). It added that, if a project is likely to have significant effects on the environment in another Member State, Article 7 of Directive 85/337 requires the Member States in whose territory the project is intended to be carried out to include that other Member State in the environmental impact assessment procedure. However, that article applied only to projects situated entirely in the territory of one Member State and did not apply to transboundary projects. Consequently, in the absence of any specific provision concerning transboundary projects in Directive 85/337, each Member State was required to assess, on the basis solely of its national law, whether a project was subject to Annex I of the Directive. The *Kärntner Landesregierung* went on to state that the EIA Act 2000 did not contain any provision according to which the entire length of transboundary power line routes and other line-based projects was to be taken into consideration.

The ombudsman for the environment filed an appeal against the decision of the *Kärntner Landesregierung* to the Environmental Senate (*Umweltsenat*) as authority of appeal.

It is against that background that the Environmental Senate decided to stay proceedings and refer the following question to the ECJ for a preliminary ruling: "*Is Council Directive 85/337 ... to be interpreted as meaning that a Member State must provide for an obligation to carry out an assessment in the case of types of projects listed in Annex I to the directive, in particular in point 20 (construction of overhead electrical power lines with a voltage of 220 kV or more and a length of more than 15 km), where the proposed scheme is to extend over the territory*

*of two or more Member States, even if the threshold giving rise to the obligation to carry out an assessment (here, a length of 15 km) is not reached or exceeded by the part of the scheme situated on its national territory but is reached or exceeded by adding the parts of the scheme proposed to be situated in a neighbouring State?"*

The ECJ ruled that Articles 2(1) and 4(1) of Directive 85/337/EEC, as amended by Directive 2003/35/EC are to be interpreted as meaning that the competent authorities of a Member State must make a project referred to in point 20 of Annex I to the Directive, such as the construction of overhead electrical power lines with a voltage of 220 kV or more and a length of more than 15 km, subject to the environmental impact assessment procedure even where the project is transboundary in nature and less than 15 km of it is situated on the territory of that Member State.

By decision of 3 March 2010 (US 8B/2008/2-35 - Kötschach-Mauthen) the Environmental Senate decided in favor of the appeal and determined, that an environmental impact assessment is required for the project at issue. The Senate stated therein by taking into account the judgment of the ECJ, the determination, that an EIA is necessary, is not dependent on whether the national defined threshold value for a project is reached or exceeded by the part of the project situated on its national territory or is reached or exceeded by adding the parts of the project proposed to be situated in a neighbouring State.

As a consequence of this decision, Alpe Adria applied on 28 April 2010 for EIA development consent for the project at issue. On 8 July 2010, the Kärntner Landesregierung, as the EIA authority at first instance, opened the environmental impact statement for public inspection and comments for the period of six weeks (beginning on 14 July 2010 ending on 25 August 2010) at the Kärntner Landesregierung, the municipality of Kötschach-Mauthen and the district administration authority Hermagor. A brief project description and a summary of the Environmental Impact Statement are available together with the announcement of public inspection on the Internet ([www.uvp.ktn.gv.at](http://www.uvp.ktn.gv.at)). After public inspection the technical experts commissioned by the EIA authority will prepare the environmental impact expertise.

## **2010**

## **2011**

### **Judgment of the Court (First Chamber) of 3 March 2011, Case C-50/09**

Failure of a Member State to fulfil obligations - Directive 85/337/EEC - Obligation of the competent environmental authority to carry out an assessment of the effects of certain projects on the environment - More than one competent authority - Need to ensure an assessment of the interaction between factors likely to be directly or indirectly affected - Application of the directive to demolition works.

<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:62009CJ0050:EN:HTML>

### **Judgment of the Court (Grand Chamber) of 8 March 2011, Case C-240/09**

Reference for a preliminary ruling: Najvyšší súd Slovenskej republiky - Slovakia.

Environment - Aarhus Convention - Public participation in the decision-making process and access to justice in environmental matters - Direct effect

<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:62009CJ0240:EN:HTML>

### **Judgment of the Court (First Chamber) of 17 March 2011, Case C-275/09**

Reference for a preliminary ruling: Raad van State - Belgium

Directive 85/337/EEC - Assessment of the effects of certain public and private projects on the environment - Airports with a runway length of 2 100 metres or more - Concept of 'construction' - Renewal of operating consent.

<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:62009CJ0275:EN:HTML>

**Judgment of the Court (Third Chamber) of 24 March 2011, Case C-435/09**

Failure of a Member State to fulfil its obligations - Directive 85/337/CEE

<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:62009CJ0435:EN:HTML/>  
<http://curia.europa.eu/juris/document/document.jsf?text=&docid=80646&pageIndex=0&doclang=FR&mode=lst&dir=&occ=first&part=1&cid=545875>

**Judgment of the Court (Fourth Chamber) of 12 May 2011, Case C-115/09**

Reference for a preliminary ruling: l'Oberverwaltungsgericht für das Land Nordrhein-Westfalen - Germany.

Directive 85/337/EEC - Environmental impact assessment - Aarhus Convention - Directive 2003/35/EC - Access to justice - Non-governmental organisations for the protection of the environment.

<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:62009CJ0115:EN:HTML>

**Judgment of the Court (Grand Chamber) of 18 October 2011, Joined cases C-128/09 to C-131/09, C-134/09 and C-135/09**

References for a preliminary ruling: Conseil d'État - Belgium.

Assessment of the effects of projects on the environment - Directive 85/337/EEC - Scope - Concept of 'specific act of national legislation' - Aarhus Convention - Access to justice in environmental matters - Extent of the right to a review procedure in respect of a legislative act.

<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:62009CJ0128:EN:HTML>

**Judgment of the Court (Fourth Chamber) of 24 November 2011, Case C-404/09**

Failure of a Member State to fulfil obligations - Directive 85/337/EEC - Assessment of the effects of certain projects on the environment - Directive 92/43/EEC - Conservation of natural habitats - Wild fauna and flora - Open-cast coal mines - 'Alto Sil' site - Special protection area - Site of Community importance - Brown bear (*Ursus arctos*) - Capercaillie (*Tetrao urogallus*)

<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:62009CJ0404:EN:HTML>

**Judgment of the Court (Fifth Chamber) of 15 December 2011, Case C-560/08**

Failure of a Member State to fulfil its obligations

<http://curia.europa.eu/juris/document/document.jsf?text=&docid=116688&pageIndex=0&doclang=FR&mode=lst&dir=&occ=first&part=1&cid=546112>

**2012**

**Judgment of the Court (Fourth Chamber) of 16 February 2012, Case C-182/10**

Reference for a preliminary ruling: Cour constitutionnelle - Belgium.

Assessment of the effects of projects on the environment - Concept of legislative act - Force and effect of the guidance in the Aarhus Convention Implementation Guide - Consent for a project given without an appropriate assessment of its effects on the environment - Access to justice in environmental matters - Extent of the right to a review procedure - Habitats Directive - Plan or project affecting the integrity of the site - Imperative reason of overriding public interest.

<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:62010CJ0182:EN:HTML>



### **Judgment of the Court (Third Chamber) of 19 April 2012, Case C-121/11**

Reference for a preliminary ruling: Conseil d'État - Belgium.

Directive 1999/31/EC - Landfill of waste - Directive 85/337/EEC - Assessment of the effects of certain public and private projects on the environment - Decision relating to the carrying on of operations at an authorised landfill site, in the absence of an Environmental Impact Assessment - Concept of 'consent'.

<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:62011CJ0121:EN:HTML>

### **Judgment of the Court (Fourth Chamber) of 19 December 2012, Case C-279/11**

Failure of a Member State to fulfil obligations - Directive 85/337/EEC - Assessment of the effects of certain public and private projects on the environment - Incorrect transposition - Annexe II - Point 1(a) to (c) - Judgment of the Court of Justice - Finding of infringement - Article 260 TFEU - Pecuniary penalties - Lump sum payment - Member State's ability to pay - Economic crisis - Assessment on the basis of current economic data.

<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:62011CJ0279:EN:HTML>

### **Opinion of the Advocate General Kokott delivered on 18 October 2012, Case C-260/11**

The Queen, on the application of David Edwards and Another v Environment Agency and Others

Reference for a preliminary ruling from the Supreme Court (United Kingdom)

Aarhus Convention – Directive 2003/35/EC – Directive 85/337/EEC – Assessment of the effects of projects on the environment – Directive 96/61/EC – Integrated pollution prevention and control – Access to justice – Concept of 'prohibitively expensive' judicial proceedings

[http://eur-lex.europa.eu/Notice.do?val=690200:cs&lang=en&list=690200:cs,578558:cs.&pos=1&page=1&nbl=2&pgs=10&hwords=c\\_26011~&checktexte=checkbox&visu=#texte](http://eur-lex.europa.eu/Notice.do?val=690200:cs&lang=en&list=690200:cs,578558:cs.&pos=1&page=1&nbl=2&pgs=10&hwords=c_26011~&checktexte=checkbox&visu=#texte)

### **Judgment of the Court (Grand Chamber) of 15 January 2013, Case C-416/10**

Reference for a preliminary ruling: Najvyšší súd Slovenskej republiky (Slovakia)

Annulment of a judicial decision - Referral back to the court concerned - Obligation to comply with the annulment decision - Reference for a preliminary ruling - Whether possible - Environment - Aarhus Convention - Directive 85/337/EEC - Directive 96/61/EC - Public participation in the decision-making process - Construction of a landfill site - Application for a permit - Trade secrets - Non-communication of a document to the public - Effect on the validity of the decision authorising the landfill site - Rectification - Assessment of the environmental impact of the project - Final opinion prior to accession of the Member State to the European Union - Application in time of Directive 85/337 - Effective legal remedy - Interim measures - Suspension of implementation - Annulment of the contested decision - Right to property - Interference

<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:62010CJ0416:EN:HTML>

## **2013**

### **Judgment of the Court (Fourth Chamber) of 14 March 2013, Case C-420/11**

Reference for a preliminary ruling from the Oberster Gerichtshof (Austria)

Environment – Directive 85/337/EEC – Assessment of the effects of certain public and private projects on the environment – Consent for such a project without an appropriate assessment – Objectives of that assessment – Conditions to which the existence of a right to compensation are subject – Whether protection of individuals against pecuniary damage is included

[http://curia.europa.eu/juris/document/document\\_print.jsf?doclang=EN&text=&pageIndex=0&part=1&mode=req&docid=135025&occ=first&dir=&cid=1123765](http://curia.europa.eu/juris/document/document_print.jsf?doclang=EN&text=&pageIndex=0&part=1&mode=req&docid=135025&occ=first&dir=&cid=1123765)



