

Press and Information Division

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Judgment of the Court of Justice in Case C-182/02

Ligue pour la protection des oiseaux and Others v French Republic

**A MEMBER STATE MAY, UNDER CERTAIN CONDITIONS, DEROGATE FROM
PROVISIONS SETTING THE OPENING AND CLOSING DATES FOR THE
HUNTING OF WILD BIRDS**

The European Wild Birds Directive does not preclude national derogations allowing the hunting of wild birds during the periods when they receive particular protection, but the derogations can apply only to certain birds in small numbers.

Three animal protection associations, the Ligue pour la protection des oiseaux (League for the Protection of Birds), the Association pour la protection des animaux sauvages (Association for the Protection of Wild Animals) and the Rassemblement des opposants B la chasse (Anti-Hunting Union), have asked the Conseil d'État to annul the French decree relating to the dates for the hunting of waterfowl and migratory birds. That decree lays down the procedures and conditions under which the French authorities, at various levels, may authorise such hunting. According to the League, the rules of the Wild Birds Directive on the conservation of cannot be interpreted as allowing hunting during the period of particular protection (nesting, breeding, rearing, etc.). In its view, such hunting cannot in any circumstances amount to a "judicious use" as permitted under the Directive.

According to the Union des chasseurs (Hunting Union), an intervener in the main proceedings, the Directive to a large extent permits derogations from the general system of protection established by it. Since the hunting of wild birds and waterfowl is subject to stricter control than that of other birds, those species can be hunted only under a derogation.

That difference of opinion led the Conseil d'État to refer two questions on the interpretation of the Directive to the Court of Justice in order to determine whether the Directive permits

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

derogations from the opening and closing dates for hunting which are set in the light of the objectives for the protection of birds laid down in the Directive and, if so, what criteria determine whether that derogation can be used.

In reply to the first question, **the Court declares that the hunting of wild birds for recreational purposes during periods of particular protection may constitute a "judicious use" permitted under the Directive.**

As regards the second question, **the Court points out that such hunting may be authorised only if certain conditions are met**, in particular that there is no other satisfactory solution, that the hunting is carried out under strictly supervised conditions and on a selective basis and that it applies only to certain birds in small numbers.

The condition that there is no other satisfactory solution cannot have been satisfied if the sole purpose of the derogation authorising hunting is to extend the hunting periods for certain species of birds in territories which they already frequent during the hunting periods authorised under the Community directive.

Moreover, hunting authorised under a derogation must **ensure the maintenance of the population of the species concerned at a satisfactory level.**

Unofficial document, for media use only, which does not bind the Court of Justice.

Available languages: DE, EN, FR.

The full text of the judgment can be found on the internet (www.curia.eu.int).

In principle it will be available from midday CET on the day of delivery.

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