

**Case C-434/22**

**Request for a preliminary ruling**

**Date lodged:**

30 June 2022

**Referring court:**

Administratīvā rajona tiesa (Latvia)

**Date of the decision to refer:**

30 June 2022

**Applicant:**

AS Latvijas valsts meži

**Defendants:**

Dabas aizsardzības pārvalde

Vides pārraudzības valsts birojs

**Intervening party:**

Valsts meža dienests

[...]



**ADMINISTRATĪVĀ RAJONA TIESA**

**RĪGAS TIESU NAMS**

**(District Administrative Court, Riga Section)**

**DECISION**

Riga, 30 June 2022

The District Administrative Court [...]

[...]

has heard, under a written procedure, the administrative-law action brought by means of an application lodged by the public limited company Latvijas valsts meži, in which it seeks the annulment of the decision [...] of the Dabas aizsardzības pārvalde (Environmental Protection Authority) of 22 March 2021.

**Subject matter and relevant facts of the main proceedings**

- 1 The Nature Reserve of the ‘Ances purvi un meži’ (‘Marshes and forests of Ance’; ‘the Nature Reserve’), which is a special area of conservation of European importance (*Natura 2000*), is situated in the municipality of Ventspils [...]. The site has a total area of 9 822 ha. It was created to ensure the preservation and management of biotopes that are specially protected in Latvia and the European Union, sites of rare and protected animal and plant species, and the landscape of coastal depressions and dunes found in the area. The Nature Reserve contains 20 specially protected biotopes of European importance, covering a total area of 9 173 ha, 48 species of protected vascular plants, 28 species of bryophytes, 2 species of fungi, 9 species of lichens, 11 mammal species, 61 rare bird species and 15 invertebrate species. The area is an important nesting site for rare and endangered birds. In 2004 the Nature Reserve was included in the list [...] of sites of international importance for birds ([...] area of 10 056 ha). Conservation areas of European importance are assigned a class (or type) of protection, based on the purpose for which they are created. The Nature Reserve in Latvian territory is a type C area which, according to the explanation of terms provided in the annex to the Likums ‘Par īpaši aizsargājamām dabas teritorijām’ (Law on Special Areas of Conservation), means that its purpose is the conservation of specially protected species and biotopes.
- 2 On 31 July 2019 the applicant, Latvijas valsts meži, submitted an application to the Valsts vides dienests (National Environmental Service; ‘the Service’) requesting an initial environmental impact assessment and the issuance of technical rules on the implementation in the Nature Reserve of the activities envisaged in the fire prevention plan [for 2019, according to the Valsts meža dienests (National Forestry Service)]; those measures also included tree felling which, in the long term, would improve the fire protection situation in the Nature Reserve and also ensure the prompt and effective prevention and extinction of any forest fires which might occur.

By decision [...] of 4 December 2019, the Ventspils reģionālā vides pārvalde (Regional Environmental Department of Ventspils), which is part of the Service, decided that the activity proposed by the applicant, namely the Nature Reserve fire prevention plan, should be subject to the environmental impact assessment procedure. In turn, by decision [...] of 20 February 2020 of the National Environmental Monitoring Office ('the Office'), the decision [...] of 4 December 2019 of the Regional Environmental Department of Ventspils was confirmed, and it was also ruled that the activity proposed by the applicant – the Nature Reserve fire prevention plan – was not subject to the environmental impact assessment procedure but was instead subject to the assessment procedure for special areas of conservation of European importance (*Natura 2000*).

- 3 The applicant notified the Office that the (2019) fire prevention plan would not be implemented and that, therefore, the assessment procedure for special areas of conservation of European importance (*Natura 2000*) would not be carried out.
- 4 On 7 and 14 January 2021, employees of the Kurzeme regional department of the Environmental Protection Authority ('the Authority') inspected the Nature Reserve and found that the applicant had felled trees in an area of the Nature Reserve approximately 17 km long, thereby widening the natural roadways. In so far as the Authority concluded that, in the present case, an activity had been undertaken which was not provided for in the Nature Reserve's nature protection plan for 2016 to 2028 ('the nature protection plan') or in the Ministru kabineta 2017. gada 16. augusta noteikumi Nr. 478, 'Dabas lieguma "Ances purvi un meži" individuālie aizsardzības un izmantošanas noteikumi' (Decree No 478 of the Council of Ministers of 16 August 2017 on specific rules for the preservation and use of the 'Marshes and forests of Ance' Nature Reserve; 'Decree No 478') and that the activity in question formed part of the proposed activities which were previously subject to a procedure to assess the implications for the nature conservation area of European importance (*Natura 2000*) (decision [...] of the Office of 20 February 2020), by decision [...] of the Authority of 15 January 2021 ('the preliminary decision'), the applicant was required to reduce the negative impact on nature conservation values of the activity undertaken in the territory of the Nature Reserve by leaving any felled pines with a diameter of more than 25 cm at their largest part in the forest stand, as the wood would subsequently decay naturally and thus, over time, the felled trees would become a suitable substrate for the development of a series of specially protected insect species found in the Nature Reserve, including the coniferous longhorn beetle of the *Tragosoma depsarium* species and the great longhorn beetle of the *Ergates faber* species; the applicant was also ordered to supplement the amount of dead wood in these stands in the EU priority protected biotope 9010\* 'Old or natural boreal forests', which is at present insufficient.

The applicant challenged that decision. By decision [...] of the director general of the Authority of 22 March 2021 ('the contested decision'), the preliminary decision was confirmed.

The applicant has brought an action in this court seeking the annulment of the aforementioned decision. The application states that, in the present case, the only activities undertaken by the applicant are those permitted and required by law, namely forest fire protection measures to reduce the risk of fire; according to the application, those measures entail maintaining forest roads and natural roadways (including felling trees in accordance with permits issued by the National Forestry Service), the measures are not subject to the assessment procedure for areas of conservation of European importance (*Natura 2000*), and they have been implemented in accordance with the nature protection plan and with Decree No 478. The application also makes reference to the agreement reached at a seminar organised on 29 July 2020 by the National Forestry Service on improving fire protection in forests and marshes (including the Nature Reserve), which established that trees had to be felled in the Nature Reserve in order to maintain the natural roadways. The requirement imposed by the contested decision has a negative impact on fire protection and on combating fires in the territory of the Nature Reserve. This point has also been noted by the National Forestry Service.

### **Applicable provisions of European Union law and national law**

#### *European Union law*

- 5 Council Directive 92/43/EEC of 21 May 1992 on the conservation of natural habitats and of wild fauna and flora ('Directive 92/43/EEC').

Article 6(1) of Directive 92/43/EEC stipulates that, for special areas of conservation, Member States must establish the necessary conservation measures involving, if need be, appropriate management plans specifically designed for the sites or integrated into other development plans, and appropriate statutory, administrative or contractual measures which correspond to the ecological requirements of the natural habitat types in Annex I and the species in Annex II present on the sites.

Article 6(3) of Directive 92/43/EEC provides that any plan or project not directly connected with or necessary to the management of the site but likely to have a significant effect thereon, either individually or in combination with other plans or projects, is to be subject to appropriate assessment of its implications for the site in view of the site's conservation objectives. In the light of the conclusions of the assessment of the implications for the site and subject to the provisions of paragraph 4, the competent national authorities are to agree to the plan or project only after having ascertained that it will not adversely affect the integrity of the site concerned and, if appropriate, after having obtained the opinion of the general public.

- 6 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 ('Directive 2011/92/EU'). Article 1(2)(a) of the directive establishes that 'project' means: 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.

#### *Latvian law*

- 7 Likums 'Par īpaši aizsargājamām dabas teritorijām' (Law on Special Areas of Conservation).

The first paragraph of Article 15 of the Law on Special Areas of Conservation provides that rules may be introduced governing the protection and use of areas of conservation in order to ensure the protection of such areas and to preserve the natural values they contain.

The second paragraph of Article 15 of the Law on Special Areas of Conservation provides for the introduction of general rules governing the protection and use of areas of conservation; individual rules governing protection and use; and plans for nature protection in areas of conservation.

Articles 16, 17 and 18 of the Law on Special Areas of Conservation govern the preparation of the documents referred to in the second paragraph of Article 15 of the Law, and the delegation of responsibility for those documents.

The fourth paragraph of Article 43 of the Law on Special Areas of Conservation establishes that an environmental impact assessment must be performed on any proposed activity or planning document (with the exception of nature protection plans for conservation areas and activities proposed in such plans which are necessary for the management or restoration of specially protected species habitats, specially protected species habitats of restricted use or specially protected biotopes, or for the organisation of infrastructure for research purposes and for nature tourism accessible to the public provided for in nature protection plans for conservation areas) which, individually or in combination with other proposed activities or planning documents, may have a substantial impact on an area of conservation of European importance (*Natura 2000*).

- 8 Article 1(3) of the Likums 'Par ietekmes uz vidi novērtējumu' (Law on Environmental Impact Assessments) establishes that proposed activity means the introduction, addition or replacement of equipment, installations and technology; the implementation of a project; construction; the extraction or use of natural resources; the impact of human activity on intact or largely unchanged areas or landscapes; and other activities the performance or final outcome of which may have a significant impact on the environment.
- 9 Meža likums (Law on Forests)

Article 1(1)(9) of the Law on Forests establishes that a natural roadway is an unmetalled roadway no more than 4 metres wide used for forest management and protection purposes.

Article (1)[(1)](23) of the Law on Forests establishes that forest infrastructure means facilities constructed or installed in forests for forest management and protection purposes and also for recreational purposes.

10 Ugunsdrošības un ugunsdzēsības likums (Law on Fire Protection and Firefighting)

The first paragraph of Article 10.<sup>1</sup> of the Law on Fire Protection and Firefighting establishes that the owner (or possessor) of a forest is under a duty to ensure compliance with fire protection requirements in the forest.

Article 12 of the Law on Fire Protection and Firefighting establishes that the Council of Ministers is to determine the requirements to be satisfied by natural or legal persons in order to prevent and effectively extinguish fires and mitigate their impact, irrespective of the form of ownership and the location of the object in question.

11 Ministru kabineta 2016. gada 19. aprīļa noteikumi Nr. 238 ‘Ugunsdrošības noteikumi’ (Decree No 238 of the Council of Ministers of 19 April 2016 on Fire Protection; ‘Decree No 238’).

Article 1 of Decree No 238 establishes that these regulations prescribe the fire protection requirements to be satisfied by natural or legal persons in order to prevent and effectively extinguish fires and to mitigate their impact, irrespective of the form of ownership and the location of the object.

Article 2(7)<sup>1</sup> of Decree No 238 establishes that the following are forest fire protection infrastructure installations: roads on forest land; firebreaks; mineralised strips; natural roadways; water supply points with access; fire lookout towers.

Article 417(3) of Decree No 238 provides that, before 1 May of each year, the person responsible for an area of forest must remove from forest roads and natural roadways which may be used for firefighting purposes any undergrowth which may hinder the passage of firefighting vehicles.

Article 417(4) of Decree No 238 stipulates that, before 1 May of each year, the person responsible for an area of forest must service the roads and the access roads to water supply points used for firefighting purposes, and must maintain them in a condition which enables access by firefighting vehicles.

Article 418 of Decree No 238 establishes that, where the person responsible for an area of forest manages a continuous area of forest of more than 5 000 ha, that person must prepare and implement a forest fire prevention plan for the entire area of forest. The plan must be accompanied by cartographic maps of the forest area.

12 Decree No 478 concerns the specific scheme for the preservation and use of the Nature Reserve.



Article 2 of Decree No 478 establishes that the Nature Reserve is created in order to ensure the conservation of the landscape of coastal depressions and dunes characteristic of the territory, and to protect specially protected biotopes and species of importance to Latvia and the European Union.

Article 11(2) of Decree No 478 establishes that in forest areas it is prohibited to fell dry trees and remove fallen trees, litter or parts thereof which have a diameter of more than 25 cm at their largest part, if the total volume thereof is less than 20 cubic metres per hectare of forest stand, with the following exceptions: 11(2)(1) felling and removing dangerous trees, provided the trees are left in the stand; 11(2)(2) carrying out the aforesaid activities in EU priority forest biotopes, namely bog woodland (91D0\*), swamp woods (9080\*), alluvial forests on riverbanks and floodplains (91E0\*), and old or natural boreal forests (9010\*), where it is prohibited to fell dry trees and remove fallen trees, litter or parts thereof which have a diameter of more than 25 cm at their largest part.

Article 14 of Decree No 478 establishes that the territory of the Nature Reserve is created in order to preserve natural values: rare and protected forest, dune, swamp or water biotopes, plant and animal species and their habitats.

Article 15(4)(3) of Decree No 478 provides that, in the territory of the Nature Reserve, it is forbidden to build hydraulic structures and install drainage systems, and to rebuild, renovate or maintain them (including clearing ditches and maintaining their banks), with the exception of the construction and renovation of drainage required for road maintenance purposes and of activities for which permission has been given in writing by the Environmental Protection Authority [...], in order to ensure the implementation of measures to manage and restore specially protected biotopes and habitats of specially protected species.

Article 23(3)(3) of Decree No 478 provides that, from 1 February to 31 July, it is forbidden to carry out forestry operations in a seasonally restricted area, with the exception of measures to protect against and combat forest fires.

- 13 The Nature Reserve has a nature protection plan which was approved by the vides aizsardzības un reģionālās attīstības ministra 2016. gada 28. aprīļa rīkojums Nr. 105 (Order No 105 of the Minister for Environmental Protection and Regional Development of 28 April 2016).

**Reasons why the referring court has doubts over the application and interpretation of European Union law**

- 14 In the present case the point at issue is, in essence, whether there were grounds for requiring the applicant to leave the felled growing pine trees with a diameter of more than 25 cm at their largest part in the forest stand. That requirement was imposed on the applicant under the previous fire prevention plan (for 2019), which provided, among other things, for maintenance work to be carried out on the natural roadways and for the removal of the vegetation, in accordance with the impact assessment procedure for special areas of conservation of European

importance (*Natura 2000*) (decision [...] of the Office of 20 February 2020). Given that situation, this court requires clarification of whether the activity undertaken by the applicant constitutes an activity which is subject to the assessment procedure for special areas of conservation (*Natura 2000*) pursuant to Article 6(3) of Directive 92/43/EEC. In addition, the court notes that this case also raises the question of whether the applicant has simply *maintained existing* natural roadways or has also *created new* natural roadways. The court therefore wishes to clarify that, in the remainder of this decision, the term ‘maintenance’ should be understood as referring to the maintenance of existing natural roadways and the creation of new natural roadways.

- 15 In order to clarify whether the activity undertaken by the applicant – namely the maintenance of natural roadways, including tree felling, undertaken as part of fire protection work – constitutes an activity which is subject to the assessment procedure for special areas of conservation of European importance (*Natura 2000*) pursuant to Article 6(3) of Directive 92/43/EEC, this court first needs to determine whether the activity undertaken by the applicant falls within the concepts of ‘plan’ or ‘project’ referred to in Article 6(3) of Directive 92/43/EEC.

Given that Directive 92/43/EEC does not define the concepts of ‘plan’ or ‘project’, in order to clarify those concepts as they apply in Directive 92/43/EEC, we need to apply Article 1(2)(a) of Directive 2011/92/EU.<sup>1</sup> Various judgments of the Court of Justice of the European Union have already given an interpretation of the concepts of ‘plan’ and ‘project’ included in Article 6(3) of Directive 92/43/EEC, ruling, for example, that mechanical cockle fishing which has been carried on for many years but for which a licence is granted annually for a limited period, with each licence entailing a new assessment both of the possibility of carrying on that activity and of the site where it may be carried on, falls within the concept of ‘plan’ or ‘project’;<sup>2</sup> the concept of ‘project’ established in Article 6(3) of Directive 92/43/EEC also applies to dredging works in respect of a navigable channel;<sup>3</sup> similarly, the Court of Justice of the European Union has clarified that the option of exempting certain proposed activities from the assessment procedure does not comply with Article 6(3) of Directive 92/43/EEC,<sup>4</sup> and that projects cannot be exempt from the assessment requirement purely because they do not

<sup>1</sup> Judgment of the Court of Justice of 7 September 2004, C-127/02, *Landelijke Vereniging tot Behoud van de Waddenzee and Nederlandse Vereniging tot Bescherming van Vogels v Staatssecretaris van Landbouw, Natuurbeheer en Visserij*, EU:C:2004:482, paragraphs 21 to 29.

<sup>2</sup> Judgment of the Court of Justice of 7 September 2004, C-127/02, *Landelijke Vereniging tot Behoud van de Waddenzee and Nederlandse Vereniging tot Bescherming van Vogels v Staatssecretaris van Landbouw, Natuurbeheer en Visserij*, EU:C:2004:482, paragraphs 21 to 29.

<sup>3</sup> Judgment of the Court of Justice of the European Union of 14 January 2010, C-226/08, *Stadt Papenburg v Bundesrepublik Deutschland*, EU:C:2010:10, paragraphs 39 to 40.

<sup>4</sup> See, for example, the judgment of the Court of Justice of the European Union of 4 March 2010, C-241/08, *Commission v France*, EU:C:2010:114, paragraphs 44 to 56.



require authorisation.<sup>5</sup> However, by contrast with the previous cases, in the present case the proposed activity is not connected with the carrying on of an economic activity, and the requirement to carry out the proposed activity as part of fire protection work is imposed on the applicant by national legislation. At the same time, in the light of the clarification published by the European Commission concerning the provisions of Article 6 of Directive 92/43/EEC, which states that the terms ‘project’ and ‘plan’ must be interpreted broadly,<sup>6</sup> this court has doubts over whether, for the purposes of Article 1(2)(a) of Directive 2011/92/EU, the concept of ‘project’ also includes activities undertaken in a forest area to maintain forest fire protection infrastructure installations at that site, in accordance with the requirements established by the legislation on forest fire protection.

- 16 If the question posed in paragraph 15 of this decision, over which this court has doubts – namely whether the activity undertaken by the applicant (the maintenance of natural roadways, including tree felling, undertaken as part of fire protection work) constitutes an activity which is subject to the assessment procedure for special areas of conservation of European importance (*Natura 2000*) pursuant to Article 6(3) of Directive 92/43/EEC – is answered in the affirmative, then it is also necessary to determine whether the activity undertaken by the applicant constitutes an activity which is directly connected with or necessary to the management of the site within the meaning of Article 6(3) of Directive 92/43/EEC. Exempt activities, for which it is not necessary to carry out an appropriate assessment in accordance with Article 6(3) of Directive 92/43/EEC, are set out in the fourth paragraph of Article 43 of the Law on Special Areas of Conservation; that provision establishes that an environmental impact assessment will not be required for nature protection plans for conservation areas or for activities proposed in such plans which are necessary for the management or restoration of specially protected species habitats, specially protected species habitats of restricted use or specially protected biotopes, or for the organisation of infrastructure for research purposes and for nature tourism accessible to the public provided for in nature protection plans for conservation areas.

This court recognises that maintenance of natural roadways, including tree felling, undertaken as part of fire protection work, does not constitute an activity whose primary purpose is the management or restoration of specially protected species habitats, specially protected species habitats of restricted use or specially protected biotopes, given that those activities are necessary primarily in order to satisfy statutory forest fire protection requirements (thereby ensuring that firefighting vehicles are able to use the natural roadways) and that they may have a negative impact on the habitats of various protected species found in the Nature

<sup>5</sup> Judgment of the Court of Justice of the European Union of 10 January 2006, C-98/03, *Commission v Germany*, EU:C:2006:3, paragraphs 43 to 52.

<sup>6</sup> Commission Notice of 21.11.2018. ‘Managing Natura 2000 sites: The provisions of Article 6 of the “Habitats” Directive 92/43/EEC’. Available at: [https://ec.europa.eu/environment/nature/natura2000/management/docs/art6/Provisions\\_Art\\_.no\\_v\\_2018\\_endocx.pdf](https://ec.europa.eu/environment/nature/natura2000/management/docs/art6/Provisions_Art_.no_v_2018_endocx.pdf) [accessed on 30.06.2022].

Reserve, even though, by ensuring compliance with fire protection requirements, at the same time they also preserve the natural values found in the Nature Reserve, which may be at risk if a fire breaks out. Moreover, the nature protection plan establishes that road maintenance is of crucial importance in preserving natural values and must provide for comprehensive monitoring and protection of the area, protection of the area against forest fires, management of forestry and agricultural land, and maintenance of the infrastructure installations. From a nature protection perspective, the fact that the land covered by the Nature Reserve has a dense road network largely comprising forest tracks accessible only to off-road vehicles protects the land in the reserve from external influences but also hampers responses to critical incidents (such as firefighting or human rescue), which is why road maintenance or repair requires very careful planning, both from a strategic standpoint and also as regards the particular conditions presented by specific stretches of road (such as swamp and stream crossings, depressions and sandy areas).

Table 18 in Chapter III of the nature protection plan, entitled ‘Land management’, sets out the land management measures proposed for the Nature Reserve. It is clear from that table that, in preparing the plan, work was undertaken to analyse and identify the specific areas where transport infrastructure has to be maintained but which also require the installation of seasonal barriers. Annex 16 of the nature protection plan, entitled ‘Transport infrastructure’, includes cartographic material showing the layout of the roads which are important from a management perspective (‘roads which must be maintained’), and a plan showing the placement of seasonal barriers. Table 18 in Chapter III of the nature protection plan, entitled ‘Land management’, includes the management measure ‘B.10.2 Surface reinforcement and maintenance in operating condition of forest roads of importance for management purposes’. The nature protection plan emphasises that strengthening and improving road surfaces involves reinforcing the carriageway used by vehicles, by covering it with gravel; it does not involve digging ditches or widening the verges, but does include creating the necessary exits at the points where they have historically existed. In the light of the above, this court takes the view that maintaining natural roadways by felling trees is not expressly included and assessed as a management measure in the nature protection plan. At the same time, both the nature protection plan and Decree No 478<sup>7</sup> contain indirect references to the need to adopt fire protection and firefighting measures, without identifying the specific fire protection and firefighting measures to be adopted.

This court therefore has doubts over whether the activities undertaken are necessary to the management of the Nature Reserve within the meaning of Article 6(3) of Directive 92/43/EEC (in conjunction with Article 6(1) of Directive 92/43/EEC). Given that the requirement to implement fire protection and firefighting measures is imposed on the applicant by national legislation (thus placing the interests of preserving natural values in conflict with the interests of

<sup>7</sup> See, for example, Articles 15(14)(3) and 23(3)(3) of Decree No 478.

protecting against and combating forest fires), this court also has doubts over whether an assessment is required even where the measures to protect against and combat forest fires are not necessary to the management of the Nature Reserve within the meaning of Article 6(3) of Directive 92/43/EEC.

Pursuant to Article 267 of the Treaty on the Functioning of the European Union, [...] the District Administrative Court

### orders

that the following questions be referred to the Court of Justice for a preliminary ruling:

- 1) Does the concept of 'project' within the meaning of Article 1(2)(a) of 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 also include activities undertaken in a forest area to ensure maintenance of the area's forest fire protection infrastructure installations in accordance with the fire protection requirements established in the applicable legislation?
- 2) If the answer to the first question is in the affirmative, must the activities undertaken in a forest area to ensure maintenance of the area's forest fire protection infrastructure installations in accordance with the fire protection requirements established in the applicable legislation be deemed, for the purposes of Article 6(3) of Council Directive 92/43/EEC of 21 May 1992 on the conservation of natural habitats and of wild fauna and flora, to constitute a project which is directly connected with or necessary to that management, meaning that an assessment procedure for special areas of conservation of European importance (*Natura 2000*) is not required for the activities in question?
- 3) If the answer to the second question is in the negative, does Article 6(3) of Council Directive 92/43/EEC of 21 May 1992 on the conservation of natural habitats and of wild fauna and flora also require an assessment to be carried out for plans and projects (activities) which are not directly connected with or necessary to the management of the special area of conservation but which are likely to have a significant effect on conservation areas of European importance (*Natura 2000*), but which are nevertheless undertaken in accordance with national legislation in order to satisfy forest fire protection and firefighting requirements?
- 4) If the answer to the third question is in the affirmative, is it possible to continue and complete the activity in question before carrying out an assessment procedure for special areas of conservation of European importance (*Natural 2000*) *ex post facto*?

- 5) If the answer to the third question is in the affirmative, in order to avoid a possibly significant impact, are the competent authorities under a duty to require the damage to be made good and to adopt measures if the significance of the impact was not assessed during the assessment procedure for special areas of conservation of European importance (*Natural 2000*)?

Proceedings are stayed until the Court of Justice of the European Union gives judgment.

[...]

WORKING DOCUMENT