

## **Case T-137/04**

**Kurt Martin Mayer and Others**

**v**

**Commission of the European Communities**

(Council Directive 92/43/EEC — Conservation of natural habitats and of wild fauna and flora — Commission Decision 2004/69/EC — List of sites of Community importance for the Alpine biogeographical region — Action for annulment — Inadmissible)

Order of the Court of First Instance (First Chamber), 22 June 2006 . . . . II - 1827

### **Summary of the Order**

*Actions for annulment — Natural or legal persons — Measures of direct and individual concern to them*

*(Art. 230, fourth para., EC)*

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Direct concern to the applicant, as a condition of the admissibility of an action for annulment under the fourth paragraph of Article 230 EC, requires that the impugned Community measure must directly affect the applicant's legal situation and leave no discretion to the addressees entrusted with the task of implementing it, such implementation being purely automatic and resulting from Community rules without the application of other intermediate rules. This means that, where a Community measure is addressed to a Member State by an institution, if the action to be taken by the Member State to implement that measure is automatic or a foregone conclusion, it is of direct concern to any person affected by that action. If, on the other hand, the measure leaves it to the Member State whether or not to act, or does not require it to act in a definite way, it is the Member State's action or inaction which directly concerns the person affected, and not the measure itself.

biogeographical region, which designates areas of Germany as sites of Community importance, affects neither the rights or obligations of the land owners nor the exercise of those rights since it imposes no obligation whatsoever on economic operators or private persons and contains no provision as regards the system of protection of sites of Community importance, such as conservation measures or authorisation procedures.

Likewise, the obligations arising from Directive 92/43, and particularly from Articles 4 and 6 thereof, which bind the Member States once sites of Community importance have been designated by the contested decision, are not directly applicable to those operators since they necessitate a measure on the part of the Member State concerned, in order to specify how it intends to implement them.

In that regard, Decision 2004/69 adopting, pursuant to Directive 92/43 on the conservation of natural habitats, the list of sites of Community importance for the Alpine

(see paras 58-60, 65)