

Case C-629/23

Summary of the request for a preliminary ruling pursuant to Article 98(1) of the Rules of Procedure of the Court of Justice

Date lodged:

16 October 2023

Referring court:

Riigikohus (Estonia)

Date of the decision to refer:

13 October 2023

Applicant:

MTÜ Eesti Suurkiskjad

Defendant:

Keskkonnaamet

Interested party:

Keskkonnaagentuur

Subject matter of the main proceedings

Action brought by the Mittetulundusühing (non-profit-making association organisation; ‘the MTÜ’) Eesti Suurkiskjad for a declaration that an order of the Keskkonnaamet (Environmental Board, Estonia) is unlawful

Subject matter and legal basis of the request

Request for a preliminary ruling pursuant to the third paragraph of Article 267 TFEU on the interpretation of Articles 1(i), 2(3) and 14(1) of the Habitats Directive

Questions referred for a preliminary ruling

1. Must Article 14(1) of the Habitats Directive be interpreted as requiring that favourable conservation status within the meaning of Article 1(i) be ensured in respect of a regional population of a species in a particular Member State where the measures referred to in that provision are adopted, or can the conservation status of the overall population in the territory of the Member States of the European Union be taken into account?
2. If account can be taken of the conservation status of the overall population in the territory of the Member States of the European Union, must the Habitats Directive be interpreted as requiring formal cooperation between the Member States to which the range of the population extends in order to conserve that population, or is it sufficient for the Member State adopting the measures referred to in Article 14 of the Habitats Directive to assess the situation of the population of the species in the other Member States concerned or lay down the conditions for doing so in a national management plan?
3. Can Article 1(i) of the Habitats Directive be interpreted as meaning that a regional population of a species classified in the ‘vulnerable’ (VU) category in accordance with the criteria of the IUCN Red List can have a favourable conservation status within the meaning of the Habitats Directive?
4. Can Article 1(i) of the Habitats Directive, in conjunction with Article 2(3) thereof, be interpreted as meaning that, when assessing the favourable conservation status of a species, account can also be taken of economic, social and cultural requirements and regional and local particularities?

Provisions of European Union law cited

Council Directive 92/43/EEC of 21 May 1992 on the conservation of natural habitats and of wild fauna and flora (OJ 1992 L 206, p. 7; ‘the Habitats Directive’)

Case-law of the European Union cited

Judgments of the Court of Justice of 23 April 2020, *Commission v Finland* (Spring hunt of male common eiders), C-217/19, EU:C:2020:291; of 10 October 2019, *Luonnonsuojeluyhdistys Tapiola*, C-674/17, EU:C:2019:851; of 14 June 2007, *Commission v Finland*, C-342/05, EU:C:2007:341; of 7 September 2004, *Waddenvereniging and Vogelbeschermingsvereniging*, C-127/02, EU:C:2004:482; and of 7 November 2000, *First Corporate Shipping*, C-371/98, EU:C:2000:600, paragraph 25

Provisions of national law cited

Looduskaitse seadus (Law on nature protection; ‘the LKS’), Paragraphs 1, 3, 46 and 49

Jahiseadus (Law on hunting; ‘the JahiS’), Paragraph 22

Succinct presentation of the facts and procedure in the main proceedings

- 1 On 4 October 2012, the Keskkonnaminister (Minister for the Environment, Estonia) adopted the ‘Action plan for the protection and management of large carnivores (wolf *canis lupus*, lynx, brown bear *ursus arctos*) for the period 2012-2021’. According to the plan, the status of all large carnivore populations can be described as good. The plan set the long-term (30-year) objective of maintaining the favourable status of the wolf population, having regard to ecological, economic and social aspects. A more specific objective for the period 2012-2021 was to maintain 15 to 25 wolf packs with pups annually (overall population size of around 150-250 specimens) before the start of the hunting season (in autumn). Within that range, annual targets were to be set according to the results of monitoring, and the population was to be maintained within those ranges by means of hunting.
- 2 The Keskkonnaamet (Environment Board; ‘the KeA’) set the wolf hunting quota for the 2020/2021 hunting year in the territory of the Republic of Estonia pursuant to Paragraph 22(2) of the JahiS by order of 29 October 2020 (‘the KeA order’) initially at 140 specimens. Under the order, the KeA is entitled to change the wolf hunting quota set by the order after the Keskkonnaagentuur (Environment Agency; ‘the KAUR’) has made proposals in that regard. The KAUR estimates that the pressure of hunting on wolves was below the population growth rate on account of poor snow conditions in 2019 and estimates the number of wolf litters in autumn 2020 at 32 to 34. The main management objective was to have an average of 20 wolf litters on the Estonian mainland by 2021, with the population distributed as evenly as possible across suitable habitats.
- 3 The MTÜ Eesti Suurkiskjad (‘the applicant’) brought an action for annulment of the KeA order before the Tallinna Halduskohus (Administrative Court, Tallinn, Estonia), which dismissed the action by judgment of 1 October 2021. The Tallinna Halduskohus (Administrative Court, Tallinn) found that the setting of the hunting quota pursuant to Paragraph 22(2) JahiS is a discretionary decision which the court could not adopt in place of the administrative authority. The court can assess whether all relevant data have been taken into account when setting the hunting quota and whether or not it has been set arbitrarily. The Tallinna Halduskohus (Administrative Court, Tallinn) found that, under the Habitats Directive the wolf is a species of Community interest which must be strictly protected, but that Annex IV to the directive provides for a derogation from the prohibition on wolf hunting for, inter alia, the Estonian wolf population, which is listed in Annex V to the directive. In the view of that court, the monitoring report drawn up by the

KAUR and the proposal for the organisation of wolf hunting annexed thereto were taken into account when the administrative act was adopted.

- 4 The applicant lodged an appeal with the Tallinna Ringkonnakoht (Tallinn Court of Appeal, Estonia) and claimed that the judgment of the Administrative Court should be set aside and the action should be upheld by a new judgment. The Tallinna Ringkonnakoht (Tallinn Court of Appeal) dismissed the appeal by judgment of 30 June 2022 and left the operative part of the Administrative Court's judgment unchanged, but partially replaced the grounds of the judgment. In its considerations, the Court of Appeal also took into account the Action Plan for the Protection and Management of Large Carnivores for the period 2022-2031.
- 5 The Court of Appeal found, inter alia, that the restrictions laid down by the Habitats Directive differed significantly as regards Annexes IV and V thereto. Unlike in the case of the Finnish population, conservation measures to protect the Estonian wolf population are permitted but not mandatory. Therefore, the requirements laid down by the Court of Justice in its decision in the case of *Luonnonsuojeluyhdistys Tapiola* are not entirely relevant in this case. The Court of Justice's position in that case, that the part of the natural range of a population extending to certain parts of the territory of a third country in which there is no obligation of strict protection of species of EU interest cannot be assessed, is also relevant, outside the context of Article 16(1) of the Habitats Directive, to the assessment of the permissibility of activities which may be detrimental to the conservation status of a species. When setting hunting quotas, Estonia can only take account of that part of the natural range of wolves within which the population is protected by EU law. The case-law of the Court of Justice does not prohibit taking account of migratory movements and impacts between Member States on the conservation status of the population of a species. There is no evidence that the conditions laid down Article 1(i) of the Habitats Directive for the long-term maintenance of the conservation status would not be met without taking account of the Russian population. It is therefore not permitted to take account of the conservation measures taken by Poland, Lithuania and Latvia, even if this is not done in the context of cooperation between the competent authorities.
- 6 According to the report 'Key actions for Large Carnivore Populations in Europe' (2015) commissioned by the Commission, the Baltic wolf population in the Member States of the EU (excluding the parts outside the EU) comprises approximately 900 to 1 400 specimens (20% of which are in Estonia), with the status of the population being stable and corresponding to the LC (least concern) category of the IUCN Red List, that is to say not classified as endangered (p. 47). It is therefore inappropriate to draw parallels with the wolf populations in Karelia (around 150 specimens in Finland) and Scandinavia (250 to 300 specimens in Sweden and Norway together), which are EN (endangered) according to the report.
- 7 The applicant lodged an appeal on a point of law and claimed that the judgment of the Court of Appeal should be partially set aside, and that a new judgment

upholding the action should be delivered. The defendant contended that the appeal on a point of law should be dismissed.

The essential arguments of the parties in the main

- 8 The **MTÜ Eesti Suurkiskjad** essentially argued at first and second instances that the conservation status of the wolf in Estonia is not favourable and the hunting of 140 wolves makes it more difficult to achieve a favourable status, that the action plan does not implement the Guidelines for Population Level Management Plans for Large Carnivores, 2008, adopted by the European Commission ('the 2008 European Commission Guidelines'), that the KeA order allows the killing of almost all reproductive individuals in a single hunting season, that wolf hunting is not targeted at areas of damage, and that hunting quotas are not set with regard to habitat loss (intensive deforestation) and the diseases which occur in wolves. The MTÜ Eesti Suurkiskjad also questioned the accuracy, sufficiency and precision of the scientific data, analyses and methods on which the KeA order was based.
- 9 In the proceedings on an appeal on a point of law, the applicant pointed out that the Court of Justice has ruled that species on a national red list are considered to have an unfavourable status within the meaning of Article 2(2) of the Habitats Directive (*Commission v Finland*, C-342/05, paragraph 26, and *Commission v Finland* [Spring hunt of male common eiders], C-217/19, paragraphs 79 and 80). Estonia cannot interpret the criteria relating to favourable status differently. The unfavourable status of the wolf was already known in 2008 (Red List category 'near threatened') and certainly no later than 2019, that is to say before the KeA order was issued. In decisions on the environment, including decisions concerning the status of the population or habitat of a species, scientific doubt must be excluded (judgment in *Luonnonsuojeluyhdistys Tapiola*, paragraphs 66 and 69).
- 10 The applicant pointed out that the wolf is categorised as 'endangered' in the Red List according to the IUCN criteria. The second, more comprehensive method for determining the status of the species is population viability analysis modelling, which is planned only in respect of the Estonian wolf in the future. Both assessment methods are also covered in the guidelines commissioned by the Commission. According to the guidelines, the status of a large carnivore cannot be considered favourable if even one indicator points to an unfavourable status (p. 22). Whilst the defendant argued that the guidelines are not binding, the applicant submits that there is no justification for not following them and no alternative method of similar weight has been put forward. The guidelines were also referred to by Advocate General Kokott (Opinions in *Commission v Finland*, C-342/05, EU:C:2006:752, point 52, and *Alianța pentru combaterea abuzurilor*, C-88/19, EU:C:2020:93, point 39).
- 11 The applicant argues that the Court of Appeal did not address the precautionary principle in its judgment. In the context of nature conservation, sufficiently effective conservation measures must be taken before the status of a species or

habitat deteriorates (Opinion of the Advocate General in *Commission v Ireland*, C-418/04, EU:C:2006:569, points 58 to 60). In its judgment in *Luonnonsuojeluyhdistys Tapiola*, the Court of Justice ruled that a management plan for large carnivores cannot automatically provide a basis for the application of derogations under Article 16, but that the requirements for a derogation must always be examined on a case-by-case basis (paragraphs 49 to 53). The same procedure should be followed when setting an upper limit for hunting a species referred to in Annex V. The aims set out in Article 2(1) and (2) of the Habitats Directive are more important than the possibility, mentioned in Article 2(3), of also taking account of social and cultural effects (judgment in *First Corporate Shipping*, C-371/98, paragraph 25).

- 12 The **KeA** essentially submitted that wolves in Estonia do not fall under any of the categories of protection within the meaning of Paragraph 46 of the LKS. Estonia has a geographical derogation in the Habitats Directive, under which wolves may be hunted on the basis of an action plan pursuant to Paragraph 49(1)(2) and (3) of the LKS. The action plan, which is non-binding and not subject to judicial review, is drawn up in cooperation with the best scientists, experts, representatives of competent authorities, and interest groups in that field. In the view of the KeA, the abovementioned European Commission guidelines are indicative in nature. The defendant pointed out that the wolf population in Estonia has a favourable status. On account of the small size of the area, the population cannot only be assessed within Estonia. The Baltic part of the wolf population within the European Union is estimated at 870 to 1 400 specimens. The development of wolf populations can be considered stable and fluctuations in the population can be considered normal. Since 2002, the wolf population has almost tripled. According to the forecasts in the wildlife monitoring report, the preliminary predicted number of litters is 32 to 34, which corresponds to 320 to 340 specimens. By hunting 140 specimens, Estonia is able to fulfil its obligations to the European Union.
- 13 In the proceedings on an appeal on a point of law, the KeA pointed out that the management of the wolf population is based on the results of monitoring and a scientific analysis and that the aim of the action plan is not only to maintain the favourable status of the wolf, but also to manage wolves since attacks on farm and domestic animals are quite frequent in Estonia. The derogation from Annex IV to the Habitats Directive was requested by Estonia on account of the good status of wolves in Estonia and the potential negative impacts on other wildlife species, property and human health in the event of high population densities. The IUCN category ‘endangered’ is not assigned on the basis of the criteria laid down in the Habitats Directive. According to the Natura assessment methodology, the wolf in Estonia continues to have a favourable status. Furthermore, the status of the wolf under the Red List criteria has not actually deteriorated, rather the assessment methodology has changed.
- 14 The KeA stated that the obligation to take account of economic and social aspects when drawing up an action plan arises from Paragraph 49(3) of the LKS. The aim of species protection is to ensure a balance between the favourable status of the

species, on the one hand, and economic and social aspects, on the other. If, on the basis of a comprehensive assessment founded on the conclusions from the scientifically collected data and the best knowledge summarised in the action plan, the KeA concluded that the status of the species is favourable and will remain favourable even after the hunting quota has been met, the burden of proof to the contrary lies with the applicant.

- 15 The **KAUR** stated that the recommendation of the hunting quota and structure for the current year was founded on population growth forecasts based on the previous year's population, the number of hunted specimens, and various biological indicators. Any errors had been included and the precautionary principle had been observed. The current favourable status of the wolf (at least 15 litters) was attained in 2007 and has not been fallen below that number since (17 to 32 litters, 24 on average). Before the 2020 hunting season, there was reliable evidence of 22 litters, and on 28 December 2020 there were already 26 litters. Over the past 15 years, the regional distribution of wolf hunting proposals has taken account not only of the population density of wolves, but also the extent and spatial distribution of the damage which they have caused to farm and domestic animals. The damage caused by wolves to farm animals in 2020 was the highest since 2007 (1 326 sheep, 44 bovine animals, and 44 dogs were killed). The hunting of wolves in nature reserves and neighbouring areas has been more restricted.
- 16 In the proceedings on an appeal on a point of law, the KAUR pointed out that the IUCN criteria were developed to assess the conservation status of species at a global level. Where an assessment is made in accordance with the Red List, the status of species is analysed at national level, but in the case of species with high territorial requirements, relatively small populations and high migratory capacity, such as the wolf, populations are considered at transnational level. The steering group for the assessment of Estonia's Red List decided to downgrade the category by only one level to 'endangered', particularly in view of possible negative future scenarios. The reason for that decision was, inter alia, the worsening of public opinion due to the increase in the wolf population and the increase in the damage caused, which could lead to a political decision to reduce the wolf population significantly (as occurred in Sweden), and to the erection of boundary fences on the eastern border, which would restrict the animals' movement. The action plan takes account not only of ecological, but also of economic and social aspects in order to determine the favourable status of the wolf population. The desired minimum population is determined primarily from an ecological point of view, while the maximum is determined from a social and economic point of view (tolerance limit).

Succinct presentation of the reasoning in the request for a preliminary ruling

- 17 Under Paragraph 1(1) of the LKS, one of the aims of the LKS is to protect nature by ensuring the favourable status of wildlife. Under Paragraph 3(2) of the LKS,

the status of a species is considered favourable if its population indicates that the species will continue to be a viable component of its natural habitat or breeding habitat in the distant future, if its natural range is not declining and if there is, and probably will continue to be, a sufficiently large habitat for the long-term maintenance of the species' population.

- 18 The obligation to maintain the favourable status of the species arises from the Habitats Directive. Article 1(i) of the directive defines the conservation status of a species as the sum of the influences acting on the species concerned that may affect the long-term distribution and abundance of its populations within the territory referred to in Article 2 (that is to say, the European territory of the Member States to which the Treaty applies). Under Article 1(i), the conservation status will be taken as 'favourable' when population dynamics data on the species concerned indicate that it is maintaining itself on a long-term basis as a viable component of its natural habitats, and the natural range of the species is neither being reduced nor is likely to be reduced for the foreseeable future, and there is, and will probably continue to be, a sufficiently large habitat to maintain its populations on a long-term basis.
- 19 In view of the fact that the relevant provisions of the LKS implement the Habitats Directive, the terms 'status' and 'conservation status' are to be regarded as synonymous in this context. For reasons of clarity, below the term 'conservation status' is used throughout.
- 20 Species of Community interest are listed in Annexes II, IV and/or V to the Habitats Directive pursuant to Article 1(g). The wolf is listed in all of those annexes: in Annex II, since conservation of this species requires the designation of special areas of conservation, and in Annex IV as an animal species of Community interest in need of strict protection, with the exception, however, of the Estonian populations listed in Annex V as an animal species of Community interest whose taking in the wild and exploitation may be subject to management measures.
- 21 In Estonia, the preparation of an action plan for the conservation and management of a species is governed by Paragraph 49 of the LKS, subparagraph 1 of which provides for the preparation of an action plan to ensure, inter alia, a favourable status (that is to say, conservation status) of the species, if the results of the scientific survey of the species show that the measures taken so far do not ensure that status, or if an international obligation so requires (subparagraph 2), and the management of a species, if the results of the scientific survey of the species show that an increase in its population would have a significant negative impact on the environment or pose a threat to human health or property (subparagraph 3). The action plan must contain information on the biology, population and range of the species, the conditions for ensuring a favourable status of the threatened species, the threats, the objective of conservation or management, the priority and timetable of the measures necessary to achieve a favourable status of the species

or for the management thereof, and the budget for organising conservation or management (subparagraph 2).

- 22 The Action Plan adopted in 2012 aims, inter alia, to maintain the favourable conservation status of the wolf at both the Estonian and Baltic population levels. The action plan explains that the Baltic wolf population is part of the Eurasian metapopulation of wolves, whose range includes Estonia, Latvia, Lithuania, north-east Poland, Belarus, northern Ukraine and part of the Russian oblasts. The Action Plan states the approximate population of wolves in Latvia (as at 2008), Lithuania (as at 2008) and in the areas of Russia neighbouring Estonia (as at 2010). It notes the existence of wolf conservation or conservation and management plans in neighbouring countries (for example, Latvia, Belarus and Finland have such plans, Lithuania and Poland are in the process of preparing them, and Russia has no such plan) and provides information on whether wolves may be hunted in those countries. In the area of international cooperation, the action plan emphasises in particular the participation of an Estonian representative in the IUCN working group and links with colleagues in Finland, Sweden, Norway, Latvia, Lithuania, Poland and Russia. Under the action plan, there is a regular exchange of information with Latvian colleagues on the development of large carnivore populations and hunting quotas. The action plan takes the view that the conservation status of Estonian large carnivore populations can be considered favourable.
- 23 The 2022 Action Plan provides an overview of the genetic study of the wolf population conducted in 2018/2019, which resulted in a more conservative estimate of the wolf population of at least 65 specimens and a more optimistic estimate of at least 122 specimens. However, both figures were considered too low. According to the action plan, the number of litters in 2020 was 31. The action plan makes it clear that the large carnivore populations in Estonia must be regarded as part of the Baltic populations, but that regardless of the conservation status of the Baltic populations, the conservation status and sustainability of the local populations in Estonia are certainly also important. While the status of the Baltic populations is classified as 'least concern' according to the IUCN Red List criteria, the Estonian population is classified as 'vulnerable', with the degree of threat downgraded by one level on account of to the presumed good connectivity with neighbouring populations – if account were taken only of the status of the population within Estonia, the assessment would be 'endangered'. It is likely that the status of the populations could deteriorate quickly if hunting pressure is too high or other factors (for example, diseases) arise. The wolf population threshold was set at 20 to 30 wolf packs with pups under one year of age before the hunting season and a spring number of specimens of reproductive age or a base population of > 140 specimens. The limit is based on the calculated size of the Baltic population of each species, the corresponding IUCN and LCIE recommendations that the total Baltic population should comprise at least 1 000 individuals of reproductive age, the proportion of Estonian forest habitats in the range of the Baltic population (approximately 20-25%) and the below-average population density of the Baltic range of cloven-hoofed animals as a prey species in Estonia,

as well as the estimates of the population's age and social structure by KAUR wildlife monitoring specialists, and Estonia's social tolerance. The action plan emphasises, inter alia, overhunting and, for example, a lack of international cooperation as risk factors for the wolf population.

- 24 In the view of the referring court, it is not clear whether, when adopting the measures provided for in Article 14 of the Habitats Directive, a favourable conservation status within the meaning of Article 1(i) must be maintained in respect of a regional population of a species in a particular Member State or whether the conservation status of the overall population (in the case of Estonia, the Baltic population) in the territory of the Member States can be taken into account. That question is relevant to the decision in the present case since the favourable conservation status of the Baltic wolf population is undisputed but, in the view of the applicant, it is not possible to consider the conservation status of the Estonian regional wolf population as favourable on the basis of the IUCN assessment. The 2022 Action Plan addresses both levels, but according to the defendant's clarifications, the 2012 Action Plan takes the Baltic population level as a basis when assessing the compliance of the wolf population with the IUCN criteria.
- 25 At first glance, a grammatical interpretation of the Habitats Directive would seem to support a broader population approach (Article 1(i) relates the conservation status of the species to the population 'within the territory referred to in Article 2', that is to say, 'in the European territory of the Member States to which the Treaty applies'). On the other hand, the various obligations to ensure, monitor and report on the protection of the species are imposed on each Member State individually and not in relation to the populations as a whole. Annex IV to the directive, which provides for derogations from, inter alia, the rules on the protection of the wolf by transferring it from Annex IV to Annex V, also contains no statement on the population as a whole, but treats the populations of each country separately.
- 26 As far as the referring court is aware, the Court of Justice has not answered that question clearly in its previous case-law. Although, in *Luonnonsuojeluyhdistys Tapiola*, the Court of Justice examined the need to ensure a favourable conservation status in the context of a derogation under Article 16 of the Habitats Directive and made it clear, inter alia, that the effects of the derogation on the various areas of the population must be assessed (paragraphs 58 and 59 of the judgment), it did not, however, rule in that case on which area should be taken as a basis when Article 14 applies or when the conservation status of the population differs in different areas. The Court of Justice expressly held merely that account should be taken of the part of the natural range of the population in question extending to certain parts of the territory of a third country which is not bound by an obligation of strict protection of species of interest for the European Union (*ibid.*, paragraph 60). Consequently, in the present case account certainly cannot be taken of the parts of the Baltic population outside the European Union (including that of Russia).

- 27 The 2008 European Commission guidelines make clear that there are many different approaches to defining a population and that a population is a hierarchical structure with several levels. According to the guidelines, the term ‘population’ used in the Habitats Directive is scientifically closest to the term ‘subpopulation’, but the guidelines use the word ‘population’ for the sake of simplicity (pp. 7 and 8). The guidelines recognise that the conservation status of a population can be most accurately assessed by evaluating the overall population and not the subpopulations within individual national borders (p. 23). On the other hand, the authors of the guidelines point out that the approach taken by the directive is still formally Member State-specific and that a broader approach would require clarification from the Commission in order to release Member States from the country-specific obligation (p. 26). However, a population-level approach would also mean that transboundary management plans, or at least the laying down of certain conditions in a national plan, would be required, which populations of neighbouring States would have to meet in order to be taken into consideration and take account, where necessary, of changes in the situation (that would require continuous monitoring of the transboundary situation through scientific cooperation) (p. 27). As far as the referring court is aware, there is no formal cooperation, at least in relation to the conservation of the wolf, but merely informal communication between scientists.
- 28 As the Commission’s 2008 guidelines suggest, some form of transboundary cooperation would therefore be necessary to cover the population on a broader level. If, in answering the first question, the Court of Justice were to take the view that the conservation status of the overall population in the territory of the Member States is decisive to the application of Article 14 of the Habitats Directive, the question arises as to whether the Habitats Directive must be interpreted as requiring formal cooperation between the Member States to which the range of the population extends, in order to conserve that population, including the coordination of conservation and management measures or even a joint management plan, or whether, if that is not the case, it is sufficient for the Member State taking measures referred to in Article 14 of the Habitats Directive to determine the situation of the population of the species in the other Member States concerned, or whether, in addition, the national management plan must lay down the specific conditions which the populations of neighbouring States must meet in order for the measures to be carried out in the manner provided for.
- 29 In the event that the Court should take the view that the conservation status of the regional population of a Member State must also be favourable in order to be able to take measures pursuant to Article 14, the question of the relationship between the assessment of the conservation status of the population under the Habitats Directive and the assessment pursuant to the IUCN Red List criteria must be answered. The referring court therefore asks the Court of Justice to clarify whether Article 1(i) of the Habitats Directive must be interpreted as meaning that a regional population of a species classified as vulnerable according to the criteria of the IUCN Red List cannot have a favourable conservation status within the meaning of the Habitats Directive. The reasoning of the Court of Justice in its

judgments *Commission v Finland*, C-342/05 (paragraphs 26 and 27) and *Commission v Finland* (Spring hunt of male common eiders), C-217/19 (paragraphs 77 to 80), which can, however, be interpreted differently, seems to suggest that it must. A corresponding connection is also made in the Commission's 2008 guidelines (pp. 18 to 20).

- 30 In the present dispute, the defendant and the KAUR have always emphasised that an increase in the number of wolves would lead to severe social and economic conflicts in society. One of the main arguments for allowing wolf hunting is the need to reduce damage by wildlife. Article 2(3) of the Habitats Directive, under which measures taken pursuant to that directive must take account of economic, social and cultural requirements and regional and local characteristics, would appear to support that argument to a certain extent. In the view of the referring court, it is more logical to interpret the directive as meaning that economic and social considerations can be taken into account when selecting measures only on condition that the favourable conservation status of the population is guaranteed and that the establishment of the favourable conservation status of the population is a purely scientific assessment which does not depend on such non-environmental considerations. Provided that a favourable conservation status is guaranteed, those considerations may support limiting population growth (see also the 2008 Commission guidelines, p. 24).
- 31 The referring court therefore asks the Court of Justice to answer the question whether Article 1(i) of the Habitats Directive, in conjunction with Article 2(3) thereof, can be interpreted as meaning that, when assessing the favourable conservation status of a species, account may also be taken of economic, social and cultural requirements.