



C/2024/5196

2.9.2024

Judgment of the Court (First Chamber) of 11 July 2024 (request for a preliminary ruling from the Landesverwaltungsgericht Tirol – Austria) – Umweltverband WWF Österreich, ÖKOBÜRO – Allianz der Umweltbewegung, Naturschutzbund Österreich, Umweltdachverband, Wiener Tierschutzverein v Amt der Tiroler Landesregierung

(Case C-601/22, ⁽¹⁾ WWF Österreich and Others)

(Reference for a preliminary ruling – Validity and interpretation – Conservation of natural habitats and of wild fauna and flora – Directive 92/43/EEC – Article 12(1) – System of strict protection for animal species – Annex IV – *Canis lupus* (wolf) – Equal treatment between Member States – Article 16(1) – National authorisation to take a specimen of a wild animal of the *canis lupus* species – Evaluation of the conservation status of populations of the species concerned – Geographical scope – Determination of the damage – Satisfactory alternative solution)

(C/2024/5196)

Language of the case: German

Referring court

Landesverwaltungsgericht Tirol

Parties to the main proceedings

Applicants: Umweltverband WWF Österreich, ÖKOBÜRO – Allianz der Umweltbewegung, Naturschutzbund Österreich, Umweltdachverband, Wiener Tierschutzverein

Defendant: Amt der Tiroler Landesregierung

Operative part of the judgment

1. The examination of the first question has disclosed no factor of such a kind as to affect the validity of Article 12(1) of Council Directive 92/43/EEC of 21 May 1992 on the conservation of natural habitats and of wild fauna and flora, as amended by Council Directive 2013/17/EU of 13 May 2013, read in conjunction with Annex IV to Directive 92/43, as amended by Directive 2013/17.
2. Article 16(1) of Directive 92/43, as amended by Directive 2013/17, must be interpreted as meaning that the condition laid down therein, according to which the derogation granted under that provision must not be detrimental to the maintenance of the populations of the species concerned with a favourable conservation status in their natural range, may be assessed by taking account, in the light of the available data, of the level of the biogeographical region, which extends beyond national borders, only where it has been established in advance that that derogation does not adversely affect the maintenance of such a favourable conservation status at the level of the local and national territory of the Member State concerned.
3. Article 16(1)(b) of Directive 92/43, as amended by Directive 2013/17, must be interpreted as meaning that the concept of 'serious damage', set out in that provision, does not cover future indirect damage which is not attributable to the specimen of the animal species which is the subject of the derogation granted under that provision.
4. Article 16(1) of Directive 92/43, as amended by Directive 2013/17, must be interpreted as meaning that, in the context of determining whether there is a 'satisfactory alternative' within the meaning of that provision, the competent national authorities are required to assess, on the basis of the best available scientific and technical knowledge, the other possible solutions, taking account, in particular, of their economic implications, without those implications being decisive, and balancing them with the general objective of maintaining or restoring the animal species concerned at a favourable conservation status.

⁽¹⁾ OJ C 441, 21.11.2022.