



C/2024/3298

3.6.2024

Request for a preliminary ruling from the Tribunale regionale di giustizia amministrativa della Regione autonoma Trentino - Alto Adige/Südtirol (Italy) lodged on 15 January 2024 – LNDC Animal Protection v Provincia autonoma di Trento, Ministero dell'Ambiente e della Sicurezza energetica

(Case C-26/24, LNDC Animal Protection - I)

(C/2024/3298)

Language of the case: Italian

Referring court

Tribunale regionale di giustizia amministrativa della Regione autonoma Trentino - Alto Adige/Südtirol

Parties to the main proceedings

Applicant: LNDC Animal Protection

Defendant: Provincia autonoma di Trento, Ministero dell'ambiente e della sicurezza energetica

Questions referred

1. On the basis of the provisions of Article 16 of Directive 92/43/EEC ⁽¹⁾, once it has been established that one of the situations expressly referred to in points (a) to (e) of Article 16(1) exists and that the condition that 'the derogation is not detrimental to the maintenance of the populations of the species concerned at a favourable conservation status in their natural range' has been satisfied, for the purpose of granting authorisation to derogate from the prohibition of 'all forms of deliberate capture or killing of specimens of these species in the wild', laid down in Article 12(a) of that directive, must the further condition that 'there is no satisfactory alternative' be interpreted as meaning that the competent authority must show that there is no satisfactory alternative that would prevent the animal from being removed from its natural range, from which follows the possibility of a reasoned choice concerning the measure to be taken in practice, consisting either in capturing the animal and keeping it in permanent captivity or in killing it, those measures being placed on an equal footing?
2. On the basis of the provisions of Article 16 of Directive 92/43/EEC, once it has been established that one of the situations expressly referred to in points (a) to (e) of Article 16(1) exists and that the condition that 'the derogation is not detrimental to the maintenance of the populations of the species concerned at a favourable conservation status in their natural range' has been satisfied, for the purpose of granting authorisation to derogate from the prohibition of 'all forms of deliberate capture or killing of specimens of these species in the wild', laid down in Article 12(a) of that directive, must the further condition, that 'there is no satisfactory alternative', be interpreted as imposing on the competent authority an obligation to choose, as the preferred option, capture for the purposes of keeping the animal in captivity (permanent captivity), and that only where that solution is objectively and not temporarily impossible does it permit the disposal of the animal by killing, so that there is a strict hierarchy between such measures?

⁽¹⁾ 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).