

Form of order sought

The appellants claim that the Court should:

- set aside the judgment under appeal;
- refer the case back to the General Court or, in the alternative, annul the challenged acts; and
- order the Parliament and the Kingdom of Spain to pay the costs or, in the alternative, reserve the costs.

Pleas in law and main arguments

In support of this appeal, the appellants rely on the following four pleas in law:

First, the General Court erred in law and infringed Article 263 TFEU and, thus, Article 47 of the Charter, by concluding that the fact that the appellants had not been allowed by the Parliament to take office, exercise their mandate and sit in the Parliament as from 2 July 2019 was not the result of the refusal of the Parliament to recognize the appellants' status as Members of the European Parliament, as reflected in the instruction of 29 May 2019 and the letter of 27 June 2019, and therefore, that the challenged acts did not bring about a change to the appellants' legal situation.

Pursuant to Article 12 of the 1976 Act,⁽¹⁾ it is for the Parliament to decide disputes that may arise out of the provisions of the 1976 Act, of which Article 1(3) is an essential provision. Donnici⁽²⁾ wrongly interpreted the division of powers between national authorities and the Parliament provided for in Article 12 of the 1976 Act as regards the powers conferred to the Parliament. The appellants would have in any event been able to take their seats pending the decision on the dispute they brought before the Parliament, and therefore, the judgment under appeal erred in law by deciding that the challenged acts did not bring a change to the appellants' situation.

The General Court erred in law by concluding that the decision not to take an initiative to assert the privileges and immunities pursuant to Rule 8 of the Rules of Procedure of the European Parliament is not a challengeable act.

The General Court erred in law by claiming that the appellants had not made a request to the Parliament for the defence of their privileges and immunities pursuant to Rules 7 and 9 of the Rules of Procedure of the European Parliament.

⁽¹⁾ Act concerning the election of the Members of the European Parliament by direct universal suffrage (OJ 1976 L 278, p. 5), annexed to Council Decision 76/787/ECSC, EEC, Euratom of 20 September 1976 (OJ 1976 L 278, p. 1), as amended by Council Decision 2002/772/EC, Euratom of 25 June and 23 September 2002 (OJ 2002 L 283, p. 1).

⁽²⁾ Judgment of 30 April 2009, *Italy and Donnici v Parliament*, C-393/07 and C-9/08, EU:C:2009:275.

Request for a preliminary ruling from the Landesverwaltungsgericht Tirol (Austria) lodged on 19 September 2022 — Umweltverband WWF Österreich and Others v Tiroler Landesregierung

(Case C-601/22)

(2022/C 441/26)

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: Tiroler Landesregierung

Questions referred

1. Does Article 12 in conjunction with Annex IV to Directive 92/43/EEC, (⁽¹⁾) as most recently amended by Directive 2013/17/EU, (⁽²⁾) according to which wolves are covered by the system of strict protection, exempting populations in several Member States, while no such exemption has been provided for Austria, infringe the 'principle of equal treatment of Member States' enshrined in Article 4(2) TEU?
2. Is Article 16(1) of Directive 92/43/EEC, as most recently amended by Directive 2013/17/EU, according to which a derogation from the system of strict protection of wolves is only permitted if, inter alia, the derogation is not detrimental to the maintenance of the populations of the species concerned with a 'favourable conservation status' in their 'natural range', to be interpreted as meaning that the favourable conservation status must be maintained or restored not in relation to the territory of a Member State, but to the natural range of a population, which may encompass a significantly larger, cross-border biogeographical region?
3. Is Article 16(1)(b) of Directive 92/43/EEC, as most recently amended by Directive 2013/17/EU, to be interpreted as meaning that, in addition to direct damage caused by a particular wolf, 'serious damage' also encompasses indirect (future) 'economic' damage that cannot be attributed to a particular wolf?
4. Is Article 16(1) of Directive 92/43/EEC, as most recently amended by Directive 2013/17/EU, to be interpreted as meaning that 'satisfactory alternatives' are to be examined purely on the basis of actual feasibility or also on the basis of economic criteria, given the prevailing topographical, alpine farming and business conditions in the Province of Tyrol?

(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).

(²) Council Directive 2013/17/EU of 13 May 2013 adapting certain directives in the field of environment, by reason of the accession of the Republic of Croatia (OJ 2013 L 158, p. 193).
