Reports of Cases

JUDGMENT OF THE COURT (Seventh Chamber)

21 March 2024*

(Reference for a preliminary ruling – Environment – EU action in the field of water policy – Directive 2000/60/EC – Environmental objectives relating to surface water – Prevention of deterioration of the status of all bodies of surface water – Point 1.2.2 of Annex V – Definitions for 'high', 'good' and 'moderate' ecological status in lakes – Criteria for assessing the biological quality element 'fish fauna')

In Case C-671/22,

REQUEST for a preliminary ruling under Article 267 TFEU from the Verwaltungsgerichtshof (Supreme Administrative Court, Austria), made by decision of 20 October 2022, received at the Court on 25 October 2022, in the proceedings

T GmbH

v

Bezirkshauptmannschaft Spittal an der Drau,

THE COURT (Seventh Chamber),

composed of F. Biltgen, President of the Chamber, J. Passer (Rapporteur) and M.L. Arastey Sahún, Judges,

Advocate General: A. Rantos,

Registrar: A. Calot Escobar,

having regard to the written procedure,

after considering the observations submitted on behalf of:

– T GmbH, by V. Rastner, Rechtsanwältin,

– the Austrian Government, by A. Posch, J. Schmoll and M. Kopetzki, acting as Agents,

– Ireland, by M. Browne, Chief State Solicitor, A. Joyce, D. O'Reilly and M. Tierney, acting as Agents, and by J. Doherty, SC, and E. McGrath, SC,

* Language of the case: German.

– the European Commission, by C. Hermes and E. Sanfrutos Cano, acting as Agents,

after hearing the Opinion of the Advocate General at the sitting on 16 November 2023,

gives the following

Judgment

1 This request for a preliminary ruling concerns the interpretation of point 1.2.2 of Annex V to Directive 2000/60/EC of the European Parliament and of the Council of 23 October 2000 establishing a framework for Community action in the field of water policy (OJ 2000 L 327, p. 1).

2 The request has been made in proceedings between T GmbH and Bezirkshauptmannschaft Spittal an der Drau (District Authority of Spittal an der Drau, Austria; 'the district authority') concerning the refusal of the latter to grant the appellant in the main proceedings permission to build a boathouse on a lake.

Legal context

European Union law

3 Recital 25 of Directive 2000/60 is worded as follows:

'Common definitions of the status of water in terms of quality and, where relevant for the purpose of the environmental protection, quantity should be established. Environmental objectives should be set to ensure that good status of surface water and groundwater is achieved throughout the Community and that deterioration in the status of waters is prevented at Community level.'

4 Article 1 of that directive, entitled 'Purpose', provides:

'The purpose of this Directive is to establish a framework for the protection of inland surface waters, transitional waters, coastal waters and groundwater which:

(a) prevents further deterioration and protects and enhances the status of aquatic ecosystems and, with regard to their water needs, terrestrial ecosystems and wetlands directly depending on the aquatic ecosystems;

…'

5 Article 2 of that directive, entitled 'Definitions', states:

'For the purposes of this Directive the following definitions shall apply:

…

17. "Surface water status" is the general expression of the status of a body of surface water, determined by the poorer of its ecological status and its chemical status.

18. “Good surface water status” means the status achieved by a surface water body when both its ecological status and its chemical status are at least “good”.

…

21. “Ecological status” is an expression of the quality of the structure and functioning of aquatic ecosystems associated with surface waters, classified in accordance with Annex V.

22. “Good ecological status” is the status of a body of surface water, so classified in accordance with Annex V.

…’

6 Article 4 of Directive 2000/60, headed ‘Environmental objectives’, provides:

‘1. In making operational the programmes of measures specified in the river basin management plans:

(a) for surface waters
   (i) Member States shall implement the necessary measures to prevent deterioration of the status of all bodies of surface water, subject to the application of paragraphs 6 and 7 and without prejudice to paragraph 8;
   (ii) Member States shall protect, enhance and restore all bodies of surface water, subject to the application of subparagraph (iii) for artificial and heavily modified bodies of water, with the aim of achieving good surface water status at the latest 15 years after the date of entry into force of this Directive, in accordance with the provisions laid down in Annex V, subject to the application of extensions determined in accordance with paragraph 4 and to the application of paragraphs 5, 6 and 7 without prejudice to paragraph 8;

…’

7 Point 1.2 of Annex V to that directive, entitled ‘Normative definitions of ecological status classifications’, provides:

‘Table 1.2. General definition for rivers, lakes, transitional waters and coastal waters

The following text provides a general definition of ecological quality. For the purposes of classification the values for the quality elements of ecological status for each surface water category are those given in tables 1.2.1 to 1.2.4 below.

Element	High status	Good status	Moderate status
General	There are no, or only very minor, anthropogenic alterations to the values of the physico-chemical and hydromorphological quality elements for the surface water body type from those normally associated with that type under undisturbed conditions. The values of the biological quality elements for the surface water body reflect those normally associated with that type under undisturbed conditions, and show no, or only very minor, evidence of distortion. These are the type-specific conditions and communities.	The values of the biological quality elements for the surface water body type show low levels of distortion resulting from human activity, but deviate only slightly from those normally associated with the surface water body type under undisturbed conditions.	The values of the biological quality elements for the surface water body type deviate moderately from those normally associated with the surface water body type under undisturbed conditions. The values show moderate signs of distortion resulting from human activity and are significantly more disturbed than under conditions of good status.

Waters achieving a status below moderate shall be classified as poor or bad.

Waters showing evidence of major alterations to the values of the biological quality elements for the surface water body type and in which the relevant biological communities deviate substantially from those normally associated with the surface water body type under undisturbed conditions, shall be classified as poor.

Waters showing evidence of severe alterations to the values of the biological quality elements for the surface water body type and in which large portions of the relevant biological communities normally associated with the surface water body type under undisturbed conditions are absent, shall be classified as bad.

…

1.2.2. Definitions for “high”, “good” and “moderate” ecological status in lakes

Biological quality elements

Element	High status	Good status	Moderate status
…	…	…	…
Fish fauna	Species composition and abundance correspond totally or nearly totally to undisturbed conditions. All the type-specific sensitive species are present. The age structures of the fish communities show little sign of anthropogenic disturbance and are not indicative of a failure in the reproduction or development of a particular species.	There are slight changes in species composition and abundance from the type-specific communities attributable to anthropogenic impacts on physico-chemical or hydromorphological quality elements. The age structures of the fish communities show signs of disturbance attributable to anthropogenic impacts on physico-chemical or hydromorphological quality elements, and, in a few instances, are indicative of a failure in the reproduction or development of a particular species, to the extent that some age classes may be missing.	The composition and abundance of fish species differ moderately from the type-specific communities attributable to anthropogenic impacts on physico-chemical or hydromorphological quality elements. The age structure of the fish communities shows major signs of disturbance, attributable to anthropogenic impacts on physico-chemical or hydromorphological quality elements, to the extent that a moderate proportion of the type specific species are absent or of very low abundance.

…’

Austrian law

8 Paragraph 30a(1) of the Wasserrechtsgesetz 1959 (Law relating to the protection of water of 1959) of 16 October 1959 (BGBl., 215/1959), in the version of 22 November 2018 (BGBl. I, 73/2018; ‘the WRG’), provides, in essence, that surface waters must be protected, enhanced and restored in order to prevent deterioration of their status and that the target status for surface water is achieved when the body of surface water has at least a good ecological status and a good chemical status.

9 According to Paragraph 104a(1)(1)(b) of the WRG, projects in respect of which deterioration of the status of a body of surface water or groundwater is probable due to changes in the hydromorphological characteristics of a body of surface water or changes in the water level of bodies of groundwater are, in any case, projects likely to affect public policy considerations.

10 Pursuant to Paragraph 105(1) of the WRG, an application for authorisation of a project may be rejected in the public interest where there is a risk of a significant deterioration of the ecological status of the water or a significant detriment to the objectives arising from other provisions of EU legislation.

The dispute in the main proceedings and the questions referred for a preliminary ruling

11 On 7 November 2013, the appellant in the main proceedings lodged an application with the district authority for permission to construct a 7 m x 8.5 m boathouse on Lake Weißensee (Austria). That lake is a naturally occurring standing body of water with a surface area of 6.53 km^2.

12 After that application was rejected by decision of 25 May 2016, the appellant in the main proceedings brought an appeal before the Landesverwaltungsgericht Kärnten (Regional Administrative Court, Carinthia, Austria), which, by judgment of 21 February 2020, upheld the rejection decision. That court took the view that the general status of the lake's surface waters was 'poor' on account of the quality of fish fauna. It held that although all the physico-chemical and hydromorphological quality elements as well as the biological quality elements 'phytoplankton' and 'macrophytes' had high status, it was required to carry out an overall assessment of the quality elements and adopt, as the determining criterion for classification, the poorest value. The poor status of the biological quality element 'fish fauna' resulted from poor management of the fish population, the current census of fish populations having shown that, out of the eight initial species of fish, only six were still present, while nine non-native species had been added.

13 According to the Landesverwaltungsgericht Kärnten (Regional Administrative Court, Carinthia), the obligation on the Member States, under Directive 2000/60, to enhance the status of surface waters and to achieve good status in respect of such waters prohibits them from adopting any measure likely to be an obstacle to improvement or not intended to help bring about improvement. That court points out that although the construction of a boathouse close to the banks of the lake will not lead to a change in the general status of the lake's waters, it will not lead to an improvement in the status of its surface waters, since it will adversely affect existing natural spawning grounds.

14 Hearing an appeal on a point of law brought by the appellant in the main proceedings against the judgment of 21 February 2020, the Verwaltungsgerichtshof (Supreme Administrative Court, Austria), the referring court, is of the view that Directive 2000/60 does not require projects to be refused where, although they do not lead to a deterioration in the status of bodies of water they do not contribute to the achievement of good surface water, but only requires authorisation to be refused in respect of projects that have non-negligible effects on the status of the bodies of water concerned.

15 The referring court notes that, according to the case-law of the Court, and in particular paragraph 51 of the judgment of 1 July 2015, *Bund für Umwelt und Naturschutz Deutschland* (C-461/13, EU:C:2015:433), Member States are required, unless a derogation is granted, to refuse to authorise an individual project where it may result in a deterioration in the status of a body of surface water or where it jeopardises the attainment of good surface water status or of good ecological potential and good surface water chemical status. The referring court also draws attention to the case-law according to which Member States are not permitted, when assessing whether an individual programme or project is compatible with the objective of preventing deterioration of water quality, to fail to take into account the temporary negative consequences of those programmes or projects on water quality, unless those consequences clearly have little effect on the status of the bodies of water concerned.

16 In the present case, the referring court is of the view that it is necessary in the case before it, first, to assess the measures intended to achieve good surface water status and, second, to assess whether that project has non-negligible consequences for those measures. It explains that such

an assessment presupposes that the status of the surface waters in question is classified below 'good'. As such, the referring court asks whether the disturbance of the fish fauna at issue in the main proceedings which, in its view, results solely from measures taken by the fishing industry and not from the anthropogenic impacts on physico-chemical or hydromorphological quality elements, means that the status of the surface water must be classified below 'good'.

17 The referring court notes that, if causes other than the anthropogenic impacts on physico-chemical or hydromorphological quality elements must be taken into account in order to determine the ecological status of surface waters, the status of the lake water should be classified as 'poor'. In those circumstances, the referring court is uncertain how to proceed with the classification of the biological quality element 'fish fauna' and what classification may be attributed to it.

18 Against that background, the Verwaltungsgerichtshof (Supreme Administrative Court) decided to stay the proceedings and to refer the following questions to the Court of Justice for a preliminary ruling:

'(1) Is point 1.2.2 of Annex V (Definitions for high, good and moderate ecological status in lakes) to [Directive 2000/60] to be interpreted as meaning that "disturbed conditions" in the "biological quality elements" table, "fish fauna" row, "high status" column refer exclusively to anthropogenic impacts on physico-chemical and hydromorphological quality elements?

If Question 1 is answered in the negative:

(2) Is the aforementioned provision to be interpreted as meaning that if a biological quality element "fish fauna" deviates from "high status" as a result of disturbed conditions other than anthropogenic impacts on physico-chemical and hydromorphological quality elements, the biological quality element "fish fauna" also cannot be classified as having "good status" or "moderate status"?'

Admissibility

19 As a preliminary point, the European Commission notes, in its written observations, that, by its questions, the referring court presupposes that the mistakes in the management of fish populations and the 'anthropogenic impacts on physico-chemical or hydromorphological quality elements', within the meaning of point 1.2.2 of Annex V to Directive 2000/60, are two different anthropogenic impacts. It notes that the questions referred for a preliminary ruling would be irrelevant if those mistakes, which the Austrian courts consider to be the reason for classifying the surface waters in question as 'poor', should be considered to be 'anthropogenic impacts on physico-chemical or hydromorphological quality elements' within the meaning of that point 1.2.2 of Annex V.

20 In that regard, it should be noted that, according to the settled case-law of the Court, questions on the interpretation of EU law referred by a national court in the factual and legislative context which that national court is responsible for defining, the accuracy of which is not a matter for the Court to determine, enjoy a presumption of relevance. The Court may refuse to rule on a question referred by a national court only where it is quite obvious that the interpretation of EU law that is sought is unrelated to the actual facts of the main action or its object, where the problem is

hypothetical, or where the Court does not have before it the factual or legal material necessary to give a useful answer to the questions submitted to it (judgment of 25 May 2023, *WertInvest Hotelbetrieb*, C-575/21, EU:C:2023:425, paragraph 30 and the case-law cited).

21 In addition, it should be borne in mind that, in accordance with the settled case-law of the Court, in the context of the procedure provided for in Article 267 TFEU, which is based on a clear separation of functions between the national courts and the Court, only the national courts may establish and assess the facts of the dispute in the main proceedings and determine the exact scope of national laws, regulations or administrative provisions. The Court is only empowered to rule on the interpretation or validity of EU law in the light of the factual and legal situation as described by the referring court, and cannot call that situation into question or determine its accuracy (judgment of 9 September 2021, *Real Vida Seguros*, C-449/20, EU:C:2021:721, paragraph 13 and the case-law cited).

22 In the present case, while it cannot be ruled out that fishing may have an impact on the physico-chemical and possibly hydromorphological quality elements of surface waters, it is not apparent from any of the documents in the file before the Court that the measures for the management of fish populations would constitute, in any event, measures having anthropogenic impacts on physico-chemical and hydromorphological quality elements of surface waters.

23 Therefore, the questions referred, which do not appear to be irrelevant, are admissible.

Consideration of the questions referred

24 By its questions, which should be examined together, the referring court asks, in essence, whether point 1.2.2 of Annex V to Directive 2000/60 must be interpreted as meaning that, as regards the criteria for assessing the biological quality element 'fish fauna', 'anthropogenic disturbances' in the composition and abundance of fish species as compared to the type-specific communities, for the purposes of that point, can result only from 'anthropogenic impacts on physico-chemical and hydromorphological quality elements of surface waters' of lakes and not from other anthropogenic impacts such as measures for the management of fish populations. If not, it wishes to know whether, for the purposes of classifying the ecological status of 'fish fauna', all causes of disturbances are relevant.

25 The referring court explains that, in the event that those disturbances should be regarded as capable of being caused by measures for the management of fish populations, the ecological status of the water of the lake in question should be classified as 'poor'. If that should be the case, it considers it necessary, in the context of the procedure for the authorisation of the project at issue in the main proceedings, to determine whether, in order to achieve good overall status for the water of the lake, the biological quality element 'fish fauna' must have 'good' or 'high' ecological status. That court is also uncertain as to the consequences, for the classification of the biological quality element 'fish fauna', of taking into account disturbed conditions not resulting from anthropogenic impacts on physico-chemical or hydromorphological quality elements. It enquires as to whether that element can thus be classified at best only as 'poor' or, rather, at any level, since all causes of deviation from 'high' ecological status is relevant in that event.

26 In accordance with the Court's settled case-law, for the purpose of interpreting a provision of EU law, it is necessary to consider not only its wording but also the context in which it occurs and the objectives pursued by the rules of which it is part (judgments of 2 September 2015, *Surmačs*, C-127/14, EU:C:2015:522, paragraph 28, and of 16 November 2016, *DHL Express (Austria)*, C-2/15, EU:C:2016:880, paragraph 19).

27 In the first place, according to the wording of point 1.2.2 of Annex V to Directive 2000/60, classification of the ecological status of a lake according to the 'high', 'good' or 'moderate' status of the biological quality element 'fish fauna' depends, inter alia, on the extent of the difference between the composition and abundance of fish species in the lake from the type-specific communities. That point specifies that the composition and abundance of those species are, depending on the circumstances, free from 'anthropogenic disturbance' or changed as compared to the type-specific communities owing to 'anthropogenic impacts'.

28 Accordingly, the reference to anthropogenic causes, for the purpose of measuring the differences that have appeared in the composition and abundance of fish species as compared to the type-specific communities, applies for the definition of all the ecological statuses. The ecological statuses 'good' and 'moderate', defined in relation to the extent of these differences, specify however that causes of a certain nature are to be taken into account. Indeed, it follows from the definition of those two ecological statuses that slight or moderate differences between the species present in the lake compared to the type-specific communities must be attributable to 'anthropogenic impacts on physico-chemical or hydromorphological quality elements'.

29 It could thus follow from a textual interpretation of point 1.2.2 of Annex V to Directive 2000/60 that only effects of such a nature are decisive for the purposes of classification under one or other of those statuses. In such a situation, changes in the composition and abundance of species, caused by measures for the management of fish populations or by any measure not attributable to anthropogenic impacts on physico-chemical or hydromorphological quality elements, would not be relevant for the purpose of assessing whether a body of surface water must be regarded as having a 'good' or 'moderate' ecological status.

30 It is true that, in accordance with the settled case-law of the Court, the interpretation of a provision of EU law in the light of its context and aims cannot have the result of depriving the clear and precise wording of that provision of all effectiveness. Thus, where the meaning of a provision of EU law is absolutely plain from its very wording, the Court cannot depart from that interpretation (judgment of 13 July 2023, *Mensing*, C-180/22, EU:C:2023:565, paragraph 34 and the case-law cited).

31 However, it must be stated that, as the Advocate General observed, in essence, in points 27 to 31 of his Opinion, point 1.2.2 of Annex V to Directive 2000/60 is not entirely unambiguous.

32 It follows that the interpretation of point 1.2.2 of Annex V to Directive 2000/60 cannot be based on its wording alone, but must take into account, in accordance with the case-law referred to in paragraph 26 above, its context and the objectives pursued by that directive.

33 It is therefore necessary, in the second place, to examine the context of point 1.2.2 and, in particular, the various tables under point 1.2 and the following subpoints of Annex V to Directive 2000/60. That point 1.2, set out in paragraph 7 above, includes a Table 1.2 entitled 'General definition for rivers, lakes, transitional waters and coastal waters', which gives an overall description of the three ecological statuses – 'high', 'good' and 'moderate' – of those bodies of

water, as well as three paragraphs that define what must be understood by the classifications 'poor' and 'bad' in relation to those bodies of water. Points 1.2.1 to 1.2.4 of that annex contain specific definitions of the ecological statuses of rivers, lakes, transitional waters and coastal waters respectively. For the purposes of assessing the ecological status of each type of body of surface water, Member States must take into account three categories of quality elements, namely biological quality elements, hydromorphological quality elements and physico-chemical quality elements, each of those quality elements comprising specific parameters.

34 Thus, that Table 1.2, where it defines in general terms the 'high status' of surface water, refers to the fact that 'the values of the biological quality elements for the surface water body reflect those normally associated with that type under undisturbed conditions, and show no, or only very minor, evidence of distortion' and specifies that 'these are the type-specific conditions and communities'.

35 As regards 'good' ecological status, that Table 1.2 provides that 'the values of the biological quality elements for the surface water body type show low levels of distortion resulting from human activity, but deviate only slightly from those normally associated with the surface water body type under undisturbed conditions', whereas, for the 'moderate' ecological status, it states that those values 'show moderate signs of distortion resulting from human activity and are significantly more disturbed than under conditions of good status' and that they 'deviate moderately from those normally associated with the surface water body type under undisturbed conditions'.

36 Consequently, as the Advocate General observed in point 38 of his Opinion, the general definition of the ecological quality of surface waters does not refer to disturbances linked to specific causes, such as anthropogenic alterations to the values of the physico-chemical and hydromorphological quality elements.

37 Accordingly, for the category relating to 'high' ecological status, it does not follow from the general definition of ecological quality, set out in Table 1.2 of Annex V to Directive 2000/60, or from the definition of the biological quality element 'fish fauna', set out in Table 1.2.2 of that annex, that the anthropogenic alterations, the anthropogenic disturbances or the distortions to which it refers concern only the physico-chemical and hydromorphological quality elements.

38 Similarly, for the categories relating to 'good' ecological status and 'moderate' ecological status, since they are defined, in those two tables, on the basis of the same indicators as 'high' ecological status (by reference to the difference that is identified as compared to the normal values), it would be contradictory, as the Advocate General stated in point 40 of his Opinion, to take into account any disturbance when assessing 'high' ecological status and not to take into account some of those disturbances when the difference between that status and 'good' and 'moderate' status must be measured.

39 Such an interpretation is, in the third place, consistent with the objectives pursued by Directive 2000/60. A strict interpretation of the criterion 'under undisturbed conditions' within the meaning of Table 1.2 of Annex V to Directive 2000/60, which, when classifying the biological quality element 'fish fauna', would lead to certain anthropogenic effects, such as measures for the management of fish populations, being disregarded, would be contrary to the ultimate objective of Directive 2000/60, as follows from recital 25 and Article 1(a) thereof, which is to achieve, by coordinated action, 'good status' of all EU surface waters by 2015 (see, to that effect, judgment of 1 July 2015, *Bund für Umwelt und Naturschutz Deutschland*, C-461/13, EU:C:2015:433, paragraphs 35 to 37).

40 Indeed, it is apparent from Article 1(a) of Directive 2000/60 that the purpose of that directive is to establish a framework for the protection of inland surface waters, transitional waters, coastal waters and groundwater which prevents further deterioration and protects and enhances the status of aquatic ecosystems and, with regard to their water needs, terrestrial ecosystems and wetlands directly depending on the aquatic ecosystems.

41 The environmental objectives which the Member States are required to achieve as regards surface waters are set out in Article 4(1)(a) of that directive, a provision which, as the Court has made clear, imposes two distinct, albeit intrinsically linked, objectives. First, in accordance with Article 4(1)(a)(i) of that directive, Member States are to implement the necessary measures to prevent deterioration of the status of all bodies of surface water (obligation to prevent deterioration). Second, pursuant to Article 4(1)(a)(ii) and (iii) thereof, Member States are to protect, enhance and restore all bodies of surface water with the aim of achieving 'good' surface water status by 22 December 2015 at the latest (obligation to enhance) (see, to that effect, judgment of 1 July 2015, *Bund für Umwelt und Naturschutz Deutschland*, C-461/13, EU:C:2015:433, paragraph 39).

42 Both the obligation to enhance and the obligation to prevent deterioration of the status of bodies of water are designed to attain the qualitative objectives pursued by the EU legislature, namely the preservation or restoration of good status, good ecological potential and good chemical status of surface waters (judgment of 1 July 2015, *Bund für Umwelt und Naturschutz Deutschland*, C-461/13, EU:C:2015:433, paragraph 41).

43 Against that background, Article 4(1)(a) of Directive 2000/60 does not simply set out, in programmatic terms, mere management-planning objectives, but has binding effects, once the ecological status of the body of water concerned has been determined, at each stage of the procedure prescribed by that directive. That provision does not therefore contain solely basic obligations, but also concerns individual projects (judgment of 5 May 2022, *Association France Nature Environnement (Temporary impacts on surface water)*, C-525/20, EU:C:2022:350, paragraph 24 and the case-law cited).

44 During the procedure for authorisation of a project, and therefore before the decision is taken, the competent national authorities are required, under Article 4(1) of Directive 2000/60, to ascertain whether that project may have adverse effects on water which would be contrary to the requirements to prevent deterioration and to improve the status of bodies of surface water and groundwater (judgment of 5 May 2022, *Association France Nature Environnement (Temporary impacts on surface water)*, C-525/20, EU:C:2022:350, paragraph 26 and the case-law cited).

45 The protection of the ecological status of aquatic ecosystems could not be ensured if, when assessing the status of the fish fauna of lakes, it were permissible to disregard anthropogenic disturbances in the composition and abundance of fish species or other disturbances not resulting from alteration of the physico-chemical and hydromorphological quality elements.

46 Moreover, a strict interpretation of point 1.2.2 of Annex V to Directive 2000/60, to the effect that the 'high' ecological status of fish fauna should not take account of certain anthropogenic alterations, would render the biological quality element 'fish fauna' itself irrelevant. In the light of the objectives of Directive 2000/60, it would be contrary to those objectives to consider that some deteriorations of fish fauna, such as, as the case may be, deteriorations of fish stocks, would not affect the classification of the quality of fish fauna according to the relevant provisions of Annex V to that directive.

47 As follows from paragraph 39 of the present judgment, a teleological interpretation of the relevant provisions confirms that, for the purposes of the definition of the ecological status of fish fauna, account should be taken of all disturbances in the composition and abundance of fish species and in the age structures of those communities.

48 Having regard to all the foregoing considerations, the answer to the questions referred is that point 1.2.2 of Annex V to Directive 2000/60 must be interpreted as meaning that, first, as regards the criteria for assessing the biological quality element 'fish fauna', 'anthropogenic disturbance', within the meaning of that point, should be understood as any disturbance caused by human activity, including any change capable of affecting the composition and abundance of fish species, and, second, all those disturbances are relevant for the purposes of classifying the ecological status of 'fish fauna'.

Costs

49 Since these proceedings are, for the parties to the main proceedings, a step in the action pending before the referring court, the decision on costs is a matter for that court. Costs incurred in submitting observations to the Court, other than the costs of those parties, are not recoverable.

On those grounds, the Court (Seventh Chamber) hereby rules:

Point 1.2.2 of Annex V to Directive 2000/60/EC of the European Parliament and of the Council of 23 October 2000 establishing a framework for Community action in the field of water policy

must be interpreted as meaning that, first, as regards the criteria for assessing the biological quality element 'fish fauna', 'anthropogenic disturbance', within the meaning of that point, should be understood as any disturbance caused by human activity, including any change capable of affecting the composition and abundance of fish species, and, second, all those disturbances are relevant for the purposes of classifying the ecological status of 'fish fauna'.

[Signatures]