Reports of Cases

JUDGMENT OF THE COURT (Third Chamber)

11 April 2013 *

(Environment — Directive 92/43/EEC — Article 6 — Conservation of natural habitats — Special areas of conservation — Assessment of the implications for a protected site of a plan or project — Criteria to be applied when assessing the likelihood that such a plan or project will adversely affect the integrity of the site concerned — Lough Corrib site — N6 Galway City Outer Bypass road scheme)

In Case C-258/11,

REQUEST for a preliminary ruling under Article 267 TFEU from the Supreme Court (Ireland), made by decision of 13 May 2011, received at the Court on 26 May 2011, in the proceedings

Peter Sweetman,

Ireland,

Attorney General,

Minister for the Environment, Heritage and Local Government

v

An Bord Pleanála,

notice parties:

Galway County Council,

Galway City Council,

THE COURT (Third Chamber),

composed of R. Silva de Lapuerta, acting as the President of the Third Chamber, K. Lenaerts, G. Arestis (Rapporteur), J. Malenovský and T. von Danwitz, Judges,

Advocate General: E. Sharpston,

Registrar: K. Malacek, Administrator,

having regard to the written procedure and further to the hearing on 12 September 2012,

* Language of the case: English.

after considering the observations submitted on behalf of:

— Mr Sweetman, by B. Harrington, Solicitor, and R. Lyons SC,

— Ireland, the Attorney General and the Minister for the Environment, Heritage and Local Government, by E. Creedon, acting as Agent, and G. Simons SC and M. Gray BL,

— An Bord Pleanála, by A. Doyle and O. Doyle, Solicitors, and N. Butler SC,

— Galway County Council and Galway City Council, by V. Raine and A. Casey, acting as Agents, E. Keane SC and B. Kennedy BL,

— the Greek Government, by G. Karipsiades, acting as Agent,

— the United Kingdom Government, by H. Walker, acting as Agent, and K. Smith, Barrister,

— the European Commission, by S. Petrova and K. Mifsud-Bonnici, acting as Agents,

after hearing the Opinion of the Advocate General at the sitting on 22 November 2012,

gives the following

Judgment

1 This request for a preliminary ruling concerns the interpretation of Article 6 of 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').

2 The request has been made in proceedings between (i) Mr Sweetman, Ireland, the Attorney General and the Minister for the Environment, Heritage and Local Government and (ii) An Bord Pleanála (the Irish Planning Board), supported by Galway County Council and Galway City Council, concerning An Bord Pleanála's decision to grant development consent for the N6 Galway City Outer Bypass road scheme.

Legal context

European Union law

3 The third recital in the preamble to the Habitats Directive states:

'… the main aim of this Directive being to promote the maintenance of biodiversity, taking account of economic, social, cultural and regional requirements, this Directive makes a contribution to the general objective of sustainable development; … the maintenance of such biodiversity may in certain cases require the maintenance, or indeed the encouragement, of human activities'.

4 Article 1(d), (e), (k) and (l) of the Habitats Directive provide:

'For the purpose of this Directive:

…

(d) *priority natural habitat types* means natural habitat types in danger of disappearance, which are present on the territory referred to in Article 2 and for the conservation of which the Community has particular responsibility in view of the proportion of their natural range which falls within the territory referred to in Article 2; these priority natural habitat types are indicated by an asterisk (*) in Annex I;

(e) *conservation status of a natural habitat* means the sum of the influences acting on a natural habitat and its typical species that may affect its long-term natural distribution, structure and functions as well as the long-term survival of its typical species within the territory referred to in Article 2.

The conservative status of a natural habitat will be taken as "favourable" when:

— its natural range and areas it covers within that range are stable or increasing, and

— the specific structure and functions which are necessary for its long-term maintenance exist and are likely to continue to exist for the foreseeable future, and

— the conservation status of its typical species is favourable as defined in (i);

...

(k) *site of Community importance* ["SCI"] means a site which, in the biogeographical region or regions to which is belongs, contributes significantly to the maintenance or restoration at a favourable conservation status of a natural habitat type in Annex I or of a species in Annex II and may also contribute significantly to the coherence of Natura 2000 referred to in Article 3, and/or contributes significantly to the maintenance of biological diversity within the biogeographic region or regions concerned.

...

(l) *special area of conservation* means a site of Community importance designated by the Member States through a statutory, administrative and/or contractual act where the necessary conservation measures are applied for the maintenance or restoration, at a favourable conservation status, of the natural habitats and/or the populations of the species for which the site is designated'.

5 Article 2 of the Habitats Directive is worded as follows:

'1. The aim of this Directive shall be to contribute towards ensuring bio-diversity through the conservation of natural habitats and of wild fauna and flora in the European territory of the Member States to which the Treaty applies.

2. Measures taken pursuant to this Directive shall be designed to maintain or restore, at favourable conservation status, natural habitats and species of wild fauna and flora of Community interest.

3. Measures taken pursuant to this Directive shall take account of economic, social and cultural requirements and regional and local characteristics.'

6 Article 3(1) of the Habitats Directive states:

‘A coherent European ecological network of special areas of conservation shall be set up under the title Natura 2000. This network … shall enable the natural habitat types and the species’ habitats concerned to be maintained or, where appropriate, restored at a favourable conservation status in their natural range.

The Natura 2000 network shall include the special protection areas classified by the Member States pursuant to [Council] Directive 79/409/EEC [of 2 April 1979 on the conservation of wild birds (OJ 1979 L 103, p. 1)].’

7 Article 6(2) to (4) of the Habitats Directive provide:

‘2. Member States shall take appropriate steps to avoid, in the special areas of conservation, the deterioration of natural habitats and the habitats of species as well as disturbance of the species for which the areas have been designated, in so far as such disturbance could be significant in relation to the objectives of this Directive.

3. Any plan or project not directly connected with or necessary to the management of the site but likely to have a significant effect thereon, either individually or in combination with other plans or projects, shall be subject to appropriate assessment of its implications for the site in view of the site’s conservation objectives. In the light of the conclusions of the assessment of the implications for the site and subject to the provisions of paragraph 4, the competent national authorities shall agree to the plan or project only after having ascertained that it will not adversely affect the integrity of the site concerned and, if appropriate, after having obtained the opinion of the general public.

4. If, in spite of a negative assessment of the implications for the site and in the absence of alternative solutions, a plan or project must nevertheless be carried out for imperative reasons of overriding public interest, including those of a social or economic nature, the Member State shall take all compensatory measures necessary to ensure that the overall coherence of Natura 2000 is protected. It shall inform the Commission of the compensatory measures adopted.

Where the site concerned hosts a priority natural habitat type and/or a priority species, the only considerations which may be raised are those relating to human health or public safety, to beneficial consequences of primary importance for the environment or, further to an opinion from the Commission, to other imperative reasons of overriding public interest.’

8 Annex I to the Habitats Directive, entitled ‘Natural habitat types of Community interest whose conservation requires the designation of special areas of conservation’, designates ‘[l]imestone pavements’ as a priority habitat type, under code 8240.

Irish law

9 The European Communities (Natural Habitats) Regulations, 1997, in the version applicable at the material time (‘the 1997 Regulations’), implement the obligations of the Habitats Directive in Irish law.

10 Regulation 30 of the 1997 Regulations, which transposed the requirements of Article 6 of the Habitats Directive, provides:

‘(1) Where a proposed road development in respect of which an application for the approval of the [competent authority] has been made in accordance with section 51 of the Roads Act, 1993, is neither directly connected with nor necessary to the management of a European site but likely to have a

significant effect thereon either individually or in combination with other developments, the [competent authority] shall ensure that an appropriate assessment of the implications for the site in view of the site's conservation objectives is undertaken.

(2) An environmental impact assessment as required under subsection (2) of section 51 of the Roads Act, 1993, in respect of a proposed road development referred to in paragraph (1) shall be an appropriate assessment for the purposes of this Regulation.

(3) [The competent authority] shall, having regard to the conclusions of the assessment undertaken under paragraph (1), agree to the proposed road development only after having ascertained that it will not adversely affect the integrity of the European site concerned.

(4) In considering whether the proposed road development will adversely affect the integrity of the European site concerned, the [competent authority] shall have regard to the manner in which the proposed development is being carried out or to any conditions or restrictions subject to which the approval is given.

(5) [The competent authority] may, notwithstanding a negative assessment and where [it] is satisfied that there are no alternative solutions, decide to agree to the proposed road development where the proposed road development has to be carried out for imperative reasons of overriding public interest.

(6)

(a) Subject to paragraph (b) imperative reasons of overriding public interest shall include reasons of a social or economic nature;

(b) If the site concerned hosts a priority natural habitat type or a priority species, the only considerations of overriding public interest shall be –

(i) those relating to human health or public safety,

(ii) beneficial consequences of primary importance for the environment, or

(iii) further to an opinion from the Commission to other imperative reasons of overriding public interest.'

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

11 By decision of 20 November 2008, An Bord Pleanála decided to grant development consent for the N6 Galway City Outer Bypass road scheme. Part of the proposed road was planned to cross the Lough Corrib SCI. Following an enlargement of the extent of the SCI, it hosts a total of 14 habitats referred to in Annex I to the Habitats Directive, of which six are priority habitat types, including karstic limestone pavement, the specific protected habitat forming the subject-matter of the main proceedings.

12 The road scheme involves the permanent loss within the Lough Corrib SCI of approximately 1.47 hectares of that limestone pavement. Those 1.47 hectares will be lost from an area which was described by An Bord Pleanála's inspector as constituting a 'distinct sub-area and an area having the particular characteristic of possessing substantial areas of a priority habitat', and which contains a total of 85 hectares of limestone pavement. That surface of 85 hectares itself forms part of a total of 270 hectares of such limestone pavement – which constitutes a priority habitat type referred to in Annex I to the Habitats Directive – in the entire SCI.

13 At the time when An Bord Pleanála's decision was taken, that area had already been included as a potential SCI on a list of sites transmitted by Ireland to the Commission. The extended Lough Corrib site was formally classified as an SCI by a Commission decision of 12 December 2008. According to the referring court, although the extended Lough Corrib site was not formally classified by the Commission as an SCI before that date, An Bord Pleanála was required under national law to apply legal protections equivalent to those under Article 6(2) to (4) of the Habitats Directive to that site from December 2006.

14 In its decision of 20 November 2008, An Bord Pleanála stated, inter alia, that 'it is considered that the part of the road development being approved would be an appropriate solution to the identified traffic needs of the city and surrounding area … and, while having a localised severe impact on the Lough Corrib candidate Special Area of Conservation, would not adversely affect the integrity of this candidate special Area of Conservation. The development, hereby approved, would not, therefore, have unacceptable effects on the environment and would be in accordance with the proper planning and sustainable development of the area.'

15 Mr Sweetman applied to the High Court for leave to issue judicial review proceedings against, in particular, An Bord Pleanála's decision of 20 November 2008. He submitted that An Bord Pleanála had erred in its interpretation of Article 6 of the Habitats Directive in concluding, in particular, that the effect of the road scheme on the Lough Corrib protected site would not constitute an 'adverse effect on the integrity of the site'.

16 By decision of 9 October 2009, the High Court dismissed the application for leave to issue judicial review proceedings and upheld An Bord Pleanála's decision. On 6 November 2009 Mr Sweetman was granted leave to appeal to the Supreme Court against the decision of 9 October 2009.

17 The Supreme Court observes that it has doubts as to when and in what circumstances, where an appropriate assessment of a plan or project is carried out pursuant to Article 6(3) of the Habitats Directive, such a plan or project is likely to have 'an adverse effect on the integrity of the site'. In that regard, the Supreme Court states that the judgment in Case C-127/02 *Waddenvereniging and Vogelbeschermingsvereniging* [2004] ECR I-7405 has not fully dispelled its doubts.

18 It is in those circumstances that the Supreme Court decided to stay the proceedings and to refer the following questions to the Court for a preliminary ruling:

'1. What are the criteria in law to be applied by a competent authority to an assessment of the likelihood of a plan or project the subject of Article 6(3) of the Habitats Directive, having "an adverse effect on the integrity of the site"?

2. Does the application of the precautionary principle have as its consequence that such a plan or project cannot be authorised if it would result in the permanent non-renewable loss of the whole or any part of the habitat in question?

3. What is the relationship, if any, between Article 6(4) and the making of the decision under Article 6(3) that the plan or project will not adversely affect the integrity of the site?'

Consideration of the questions referred

Jurisdiction of the Court

19 Galway County Council and Galway City Council plead, in essence, that the Court lacks jurisdiction to answer the questions referred for a preliminary ruling given that Article 6(3) of the Habitats Directive is not applicable to the main proceedings because An Bord Pleanála's decision approving the N6 Galway City Outer Bypass road scheme was adopted before the Commission decision to classify as an SCI the Lough Corrib site extension which is affected by the scheme.

20 It is indeed apparent from the order for reference that, on the date of An Bord Pleanála's decision, 20 November 2008, the extension of the Lough Corrib site had been notified within Ireland, under Regulation 4 of the 1997 Regulations, but had not yet been designated as an SCI in the list of sites adopted by the Commission. Such a decision was adopted by the Commission on 12 December 2008, that is to say, three weeks after An Bord Pleanála's decision.

21 In the main proceedings, as the referring court itself states, Regulation 30 of the 1997 Regulations largely replicates the wording of Article 6 of the Habitats Directive. It follows, furthermore, from the title of the 1997 Regulations that the Irish legislature intended by their adoption to transpose that directive into domestic law. Finally, as the referring court observes, by according a notified site protection equivalent to that under Article 6(2) to (4) of the Habitats Directive before its designation as an SCI in the list adopted by the Commission, Ireland considered itself to have complied with its obligation to take appropriate protective measures pending designation of a site as an SCI.

22 On that last point, it should be recalled that the Court has already held that, whilst the protective measures prescribed in Article 6(2) to (4) of the Habitats Directive are required only as regards sites which are placed on the list of sites selected as SCIs drawn up by the Commission, this does not mean that the Member States do not have to protect sites as soon as they propose them, under Article 4(1) of the directive, as sites eligible for identification as SCIs on the national list transmitted to the Commission (see Case C-117/03 *Dragaggi and Others* [2005] ECR I-167, paragraphs 25 and 26, and Case C-244/05 *Bund Naturschutz in Bayern and Others* [2006] ECR I-8445, paragraphs 36 and 37).

23 Therefore, as soon as a site is proposed by a Member State, pursuant to Article 4(1) of the Habitats Directive, on the national list transmitted to the Commission as a site eligible for identification as an SCI, and at least until the Commission adopts a decision in that regard, that Member State is, by virtue of the Habitats Directive, required to take protective measures of such a kind as to safeguard the ecological interest referred to (see, to this effect, *Dragaggi and Others*, paragraph 29, and *Bund Naturschutz in Bayern and Others*, paragraph 38). The situation of such a site thus cannot be categorised as a situation not falling within the scope of European Union law.

24 It accordingly follows from the foregoing considerations that the Court has jurisdiction to answer the questions referred for a preliminary ruling by the Supreme Court.

Substance

25 By its questions, which it is appropriate to deal with together, the referring court asks, in essence, whether Article 6(3) of the Habitats Directive must be interpreted as meaning that in a situation such as that in the main proceedings a plan or project not directly connected with or necessary to the management of a site adversely affects the integrity of that site. For the purposes of such an interpretation, the referring court raises the question of the possible effect of the precautionary principle and the question of the relationship between Article 6(3) and Article 6(4) of the Habitats Directive.

26 It is apparent from the order for reference that the implementation of the N6 Galway City Outer Bypass road scheme would result in the permanent and irreparable loss of part of the Lough Corrib SCI's limestone pavement, which is a priority natural habitat type specially protected by the Habitats Directive. Following assessment of the impact of the road scheme on the Lough Corrib SCI, An Bord Pleanála established that it would have a locally significant negative impact on the SCI, but decided that such an impact did not adversely affect the integrity of that site.

27 According to Mr Sweetman, Ireland, the Attorney General, the Minister for the Environment, Heritage and Local Government and the Commission, a negative impact of that kind on the site caused by that road scheme necessarily entails an adverse effect on the site's integrity. By contrast, An Bord Pleanála, Galway County Council and Galway City Council and the United Kingdom Government submit that the finding of damage to that site is not necessarily incompatible with there being no adverse effects on its integrity.

28 Article 6(3) of the Habitats Directive establishes an assessment procedure intended to ensure, by means of a prior examination, that a plan or project not directly connected with or necessary to the management of the site concerned but likely to have a significant effect on it is authorised only to the extent that it will not adversely affect the integrity of that site (*Waddenvereniging and Vogelbeschermingsvereniging*, paragraph 34, and Case C-182/10 *Solvay and Others* [2012] ECR, paragraph 66).

29 That provision thus prescribes two stages. The first, envisaged in the provision's first sentence, requires the Member States to carry out an appropriate assessment of the implications for a protected site of a plan or project when there is a likelihood that the plan or project will have a significant effect on that site (see, to this effect, *Waddenvereniging and Vogelbeschermingsvereniging*, paragraphs 41 and 43).

30 Where a plan or project not directly connected with or necessary to the management of a site is likely to undermine the site's conservation objectives, it must be considered likely to have a significant effect on that site. The assessment of that risk must be made in the light of, in particular, the characteristics and specific environmental conditions of the site concerned by such a plan or project (see, to this effect, *Waddenvereniging and Vogelbeschermingsvereniging*, paragraph 49).

31 The second stage, which is envisaged in the second sentence of Article 6(3) of the Habitats Directive and occurs following the aforesaid appropriate assessment, allows such a plan or project to be authorised on condition that it will not adversely affect the integrity of the site concerned, subject to the provisions of Article 6(4).

32 In appraising the scope of the expression 'adversely affect the integrity of the site' in its overall context, it should be made clear that, as the Advocate General has noted in point 43 of her Opinion, the provisions of Article 6 of the Habitats Directive must be construed as a coherent whole in the light of the conservation objectives pursued by the directive. Indeed, Article 6(2) and Article 6(3) are designed to ensure the same level of protection of natural habitats and habitats of species (see, to this effect, Case C-404/09 *Commission* v *Spain* [2011] ECR I-11853, paragraph 142), whilst Article 6(4) merely derogates from the second sentence of Article 6(3).

33 The Court has already held that Article 6(2) of the Habitats Directive makes it possible to comply with the fundamental objective of preservation and protection of the quality of the environment, including the conservation of natural habitats and of wild fauna and flora, and establishes a general obligation of protection consisting in avoiding deterioration as well as disturbance which could have significant effects in the light of the directive's objectives (Case C-226/08 *Stadt Papenburg* [2010] ECR I-131, paragraph 49 and the case-law cited).

34 Article 6(4) of the Habitats Directive provides that if, in spite of a negative assessment carried out in accordance with the first sentence of Article 6(3) of the directive, a plan or project must nevertheless be carried out for imperative reasons of overriding public interest, including those of a social or economic nature, and there are no alternative solutions, the Member State is to take all compensatory measures necessary to ensure that the overall coherence of Natura 2000 is protected (see Case C-304/05 *Commission* v *Italy* [2007] ECR I-7495, paragraph 81, and *Solvay and Others*, paragraph 72).

35 As an exception to the authorisation criterion laid down in the second sentence of Article 6(3) of the Habitats Directive, Article 6(4) can apply only after the implications of a plan or project have been analysed in accordance with Article 6(3) (see *Solvay and Others*, paragraphs 73 and 74).

36 It follows that Article 6(2) to (4) of the Habitats Directive impose upon the Member States a series of specific obligations and procedures designed, as is clear from Article 2(2) of the directive, to maintain, or as the case may be restore, at a favourable conservation status natural habitats and, in particular, special areas of conservation.

37 In this regard, according to Article 1(e) of the Habitats Directive, the conservation status of a natural habitat is taken as 'favourable' when, in particular, its natural range and areas it covers within that range are stable or increasing and the specific structure and functions which are necessary for its long-term maintenance exist and are likely to continue to exist for the foreseeable future.

38 In this context, the Court has already held that the Habitats Directive has the aim that the Member States take appropriate protective measures to preserve the ecological characteristics of sites which host natural habitat types (see Case C-308/08 *Commission* v *Spain* [2010] ECR I-4281, paragraph 21, and Case C-404/09 *Commission* v *Spain*, paragraph 163).

39 Consequently, it should be inferred that in order for the integrity of a site as a natural habitat not to be adversely affected for the purposes of the second sentence of Article 6(3) of the Habitats Directive the site needs to be preserved at a favourable conservation status; this entails, as the Advocate General has observed in points 54 to 56 of her Opinion, the lasting preservation of the constitutive characteristics of the site concerned that are connected to the presence of a natural habitat type whose preservation was the objective justifying the designation of that site in the list of SCIs, in accordance with the directive.

40 Authorisation for a plan or project, as referred to in Article 6(3) of the Habitats Directive, may therefore be given only on condition that the competent authorities – once all aspects of the plan or project have been identified which can, by themselves or in combination with other plans or projects, affect the conservation objectives of the site concerned, and in the light of the best scientific knowledge in the field – are certain that the plan or project will not have lasting adverse effects on the integrity of that site. That is so where no reasonable scientific doubt remains as to the absence of such effects (see, to this effect, Case C-404/09 *Commission* v *Spain*, paragraph 99, and *Solvay and Others*, paragraph 67).

41 It is to be noted that, since the authority must refuse to authorise the plan or project being considered where uncertainty remains as to the absence of adverse effects on the integrity of the site, the authorisation criterion laid down in the second sentence of Article 6(3) of the Habitats Directive integrates the precautionary principle and makes it possible to prevent in an effective manner adverse effects on the integrity of protected sites as a result of the plans or projects being considered. A less stringent authorisation criterion than that in question could not ensure as effectively the fulfilment of the objective of site protection intended under that provision (*Waddenvereniging and Vogelbeschermingsvereniging*, paragraphs 57 and 58).

42 Such an appraisal applies all the more in the main proceedings, since the natural habitat affected by the proposed road scheme is among the priority natural habitat types, which Article 1(d) of the Habitats Directive defines as 'natural habitat types in danger of disappearance' for whose conservation the European Union has 'particular responsibility'.

43 The competent national authorities cannot therefore authorise interventions where there is a risk of lasting harm to the ecological characteristics of sites which host priority natural habitat types. That would particularly be so where there is a risk that an intervention of a particular kind will bring about the disappearance or the partial and irreparable destruction of a priority natural habitat type present on the site concerned (see, as regards the disappearance of priority species, Case C-308/08 *Commission* v *Spain*, paragraph 21, and Case C-404/09 *Commission* v *Spain*, paragraph 163).

44 So far as concerns the assessment carried out under Article 6(3) of the Habitats Directive, it should be pointed out that it cannot have lacunae and must contain complete, precise and definitive findings and conclusions capable of removing all reasonable scientific doubt as to the effects of the works proposed on the protected site concerned (see, to this effect, Case C-404/09 *Commission* v *Spain*, paragraph 100 and the case-law cited). It is for the national court to establish whether the assessment of the implications for the site meets these requirements.

45 In the main proceedings, the Lough Corrib SCI was designated as a site hosting a priority habitat type because, in particular, of the presence in that site of limestone pavement, a natural resource which, once destroyed, cannot be replaced. Having regard to the criteria referred to above, the conservation objective thus corresponds to maintenance at a favourable conservation status of that site's constitutive characteristics, namely the presence of limestone pavement.

46 Consequently, if, after an appropriate assessment of a plan or project's implications for a site, carried out on the basis of the first sentence of Article 6(3) of the Habitats Directive, the competent national authority concludes that that plan or project will lead to the lasting and irreparable loss of the whole or part of a priority natural habitat type whose conservation was the objective that justified the designation of the site concerned as an SCI, the view should be taken that such a plan or project will adversely affect the integrity of that site.

47 In those circumstances, that plan or project cannot be authorised on the basis of Article 6(3) of the Habitats Directive. Nevertheless, in such a situation, the competent national authority could, where appropriate, grant authorisation under Article 6(4) of the directive, provided that the conditions set out therein are satisfied (see, to this effect, *Waddenvereniging and Vogelbeschermingsvereniging*, paragraph 60).

48 It follows from the foregoing considerations that the answer to the questions referred is that Article 6(3) of the Habitats Directive must be interpreted as meaning that a plan or project not directly connected with or necessary to the management of a site will adversely affect the integrity of that site if it is liable to prevent the lasting preservation of the constitutive characteristics of the site that are connected to the presence of a priority natural habitat whose conservation was the objective justifying the designation of the site in the list of SCIs, in accordance with the directive. The precautionary principle should be applied for the purposes of that appraisal.

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 (Third Chamber) hereby rules:

Article 6(3) of Council Directive 92/43/EEC of 21 May 1992 on the conservation of natural habitats and of wild fauna and flora must be interpreted as meaning that a plan or project not directly connected with or necessary to the management of a site will adversely affect the integrity of that site if it is liable to prevent the lasting preservation of the constitutive characteristics of the site that are connected to the presence of a priority natural habitat whose conservation was the objective justifying the designation of the site in the list of sites of Community importance, in accordance with the directive. The precautionary principle should be applied for the purposes of that appraisal.

[Signatures]