Reports of Cases

JUDGMENT OF THE COURT (Second Chamber)

11 June 2020*

(Reference for a preliminary ruling – 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) – Article 16(1) – Natural range – Capture and transport of a specimen of a wild animal of the *canis lupus* species – Public safety)

In Case C-88/19,

REQUEST for a preliminary ruling under Article 267 TFEU from the Judecătoria Zărnești (Court of First Instance, Zărnești, Romania), made by decision of 15 November 2018, received at the Court on 7 February 2019, in the proceedings

**Alianța pentru combaterea abuzurilor**

v

**TM,**

**UN,**

**Direcția pentru Monitorizarea și Protecția Animalelor,**

THE COURT (Second Chamber),

composed of A. Arabadjiev (Rapporteur), President of the Chamber, P.G. Xuereb and T. von Danwitz, Judges,

Advocate General: J. Kokott,

Registrar: A. Calot Escobar,

having regard to the written procedure,

after considering the observations submitted on behalf of:

– the Alianța pentru combaterea abuzurilor, by C. Dumitriu and C. Feher,

– the Romanian Government, initially by E. Gane, L. Lițu and C.-R. Canțăr, and subsequently by E. Gane and L. Lițu, acting as Agents,

* Language of the case: Romanian.

– the European Commission, by G.-D. Balan and C. Hermes, acting as Agents,

after hearing the Opinion of the Advocate General at the sitting on 13 February 2020,

gives the following

## Judgment

1 This request for a preliminary ruling concerns the interpretation of Article 12(1) and Article 16(1) 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), as amended by Directive 2013/17/EU of 13 May 2013 (OJ 2013 L 158, p. 193) ('the Habitats Directive').

2 The request has been made in proceedings between the Alianța pentru combaterea abuzurilor, an association, on the one hand, and TM, a member of the Direcția pentru Monitorizarea și Protecția Animalelor ('the DMPA'), an animal protection association, UN, a veterinary surgeon, and the DMPA, on the other hand, concerning the capture and transport, in inappropriate conditions, of a wild animal specimen belonging to the *canis lupus* (wolf) species.

### Legal framework

#### *EU law*

3 Article 1 of the Habitats Directive, which is entitled 'Definitions', states:

'For the purpose of this Directive:

…

(b) *natural habitats* means terrestrial or aquatic areas distinguished by geographic, abiotic and biotic features, whether entirely natural or semi-natural;

…

(f) *habitat of a species* means an environment defined by specific abiotic and biotic factors, in which the species lives at any stage of its biological cycle;

…

(k) *site of Community importance* means …

For animal species ranging over wide areas, sites of Community importance shall correspond to the places within the natural range of such species which present the physical or biological factors essential to their life and reproduction;

…'

4 Article 2 of that directive provides:

‘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.’

5 Under Article 4(1) of the directive:

‘On the basis of the criteria set out in Annex III (Stage 1) and relevant scientific information, each Member State shall propose a list of sites indicating which natural habitat types in Annex I and which species in Annex II that are native to its territory the sites host. For animal species ranging over wide areas these sites shall correspond to the places within the natural range of such species which present the physical or biological factors essential to their life and reproduction. …’

6 Article 12(1) of the same directive states:

‘Member States shall take the requisite measures to establish a system of strict protection for the animal species listed in Annex IV(a) in their natural range, prohibiting:

(a) all forms of deliberate capture or killing of specimens of these species in the wild;

(b) deliberate disturbance of these species, particularly during the period of breeding, rearing, hibernation and migration;

(c) deliberate destruction or taking of eggs from the wild;

(d) deterioration or destruction of breeding sites or resting places.’

7 Article 16(1) of the Habitats Directive provides:

‘Provided that there is no satisfactory alternative and the derogation is not detrimental to the maintenance of the populations of the species concerned at a favourable conservation status in their natural range, Member States may derogate from the provisions of Articles 12, 13, 14 and 15(a) and (b):

(a) in the interest of protecting wild fauna and flora and conserving natural habitats;

(b) to prevent serious damage, in particular to crops, livestock, forests, fisheries and water and other types of property;

(c) in the interests of public health and public safety, or for other imperative reasons of overriding public interest, including those of a social or economic nature and beneficial consequences of primary importance for the environment;

(d) for the purpose of research and education, of repopulating and re-introducing these species and for the breedings operations necessary for these purposes, including the artificial propagation of plants;

(e) to allow, under strictly supervised conditions, on a selective basis and to a limited extent, the taking or keeping of certain specimens of the species listed in Annex IV in limited numbers specified by the competent national authorities.'

8 The list of animal species 'of Community interest in need of strict protection', which is drawn up in Annex IV(a) to that directive ('the protected animal species'), includes, inter alia, the *canis lupus* (wolf).

### *Romanian law*

9 Article 33 of ordonanța de urgență a Guvernului nr. 57/2007 privind regimul ariilor naturale protejate, conservarea habitatelor naturale, a florei și faunei sălbatice (Government Emergency Ordinance No 57/2007 regulating nature reserves and the conservation of natural habitats and of wild fauna and flora), in the version thereof applicable to the dispute in the main proceedings ('OUG 57/2007'), provides:

'1. In relation to the terrestrial, aquatic and subterranean species of flora and fauna listed in Annexes No 4 A and 4 B, with the exception of species of birds living inside or outside nature reserves, the following shall be prohibited:

(a) all forms of collection, capture, killing and destruction of, or injury to, specimens in their natural habitat at any stage in their life cycle;

(b) deliberate disturbance during periods of breeding, rearing, hibernation and migration;

…

(f) the keeping, transport, sale or exchange for whatever purpose and the offering for exchange or sale of specimens taken from the wild, at any stage in their biological life cycle.

…'

10 Article 38 of OUG 57/2007 states:

'1. Notwithstanding the provisions of Article 33(1) to (4) and Article 37(1), the central public authority for protection of the environment shall lay down derogations annually and when necessary, provided that there is no acceptable alternative and the derogating measures are not detrimental to the maintenance of the populations of the species concerned at a favourable conservation status in their natural environment, and only in the following cases:

…

(c) in the interests of public health and public safety and, for species of animals other than birds, also for other reasons of public interest, including those of a social or economic nature, and for the consequent benefits of primary importance for the environment;

…

2. The derogations shall be laid down by order of the head of the central public authority for protection of the environment and forests, adopted following delivery of the opinion of the Romanian Academy.

…

$2^{2}$. The procedure for laying down the derogations shall be approved by order of the central public authority for protection of the environment and forests.

$2^{3}$. The derogations provided for in paragraph $2^{1}$ shall specify the following:

(a) the species to which the derogations apply;

(b) the means, systems and methods authorised for capture and killing;

(c) the conditions of risk and the circumstances of time and place under which such derogations may be granted;

(d) the authority empowered to declare that the necessary conditions obtain and to decide what means, systems or methods may be used, within what limits and by whom;

(e) the controls which are to be carried out.

…'

11 Under Article 52 of OUG 57/2007:

'Commission of the following acts shall constitute a crime punishable by a term of imprisonment of between three months and one year or by a fine:

…

(d) infringement of the provisions of Article 33(1) and (2)'.

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

12 Șimon (Romania), a village in the municipality of Bran in the county of Brașov, lies about one kilometre to the east of the border with the 'Bucegi' site, which the European Commission, on a proposal from Romania, added to the list of sites of Community importance under code number ROSCI0013. A further such site, the 'Munții Făgăraș' site (code number ROSCI0122), is situated some eight kilometres to the west of that village. The standard data forms record wolves as being present on both sites.

13 At around 19.00 on 6 November 2016, employees of the DMPA and UN, as a veterinary surgeon, made their way to Șimon, acting under the direction of TM, with the intention of capturing and relocating a wolf which for several days had been loitering around the home of a resident, playing and eating with that resident's dogs. After receiving a dose of anaesthetic medication for

veterinary use delivered via a hypodermic gun, that wolf was tracked, captured and then lifted by its tail and the scruff of its neck, taken to a vehicle some distance away, and then placed in a cage for transporting dogs.

14 The DPMA employees coordinated the transport of the captured wolf to the Libearty natural bear reserve in Zărnești (Romania), which also has a fenced area for wolves from non-compliant zoos. However, during the journey, the wolf managed to break the cage in which it was held and fled into the surrounding woods.

15 On 9 May 2017, the Alianța pentru combaterea abuzurilor filed a criminal complaint against TM, UN and the DMPA, as well as against other people working for the DPMA, concerning offences related to the capture and transport of a wolf in poor conditions. It is clear from that complaint that authorisation to capture and transport the wolf had not been sought.

16 The Judecătoria Zărnești (Court of First Instance, Zărnești, Romania) asks to what extent wild specimens of the *canis lupus* species may be deliberately captured or killed in the absence of a derogation based on Article 16 of the Habitats Directive, where those animals are sighted on the outskirts of communities or enter the territory of a local authority, or whether a derogation is mandatory in the case of any non-captive wild specimen, regardless of whether that specimen has entered the territory of a local authority.

17 That court observes that the main aim of the Habitats Directive, which is 'to promote the maintenance of biodiversity, taking account of economic, social, cultural and regional requirements, [by making] a contribution to the general objective of sustainable development', is fully justified when protected animals leave their natural habitat. However, a strict interpretation of the provisions of that directive could result in the State being released from any obligation where those animals have left their natural habitat, which would be contrary to the objective pursued by that legislation.

18 The court refers, in particular, to the derogation from the rules on the protection of threatened species laid down in Article 16(1)(c) of the Habitats Directive, under which the concept of 'public safety' is closely connected with situations in which animals belonging to threatened species are outside their natural habitat.

19 In those circumstances, the Judecătoria Zărnești (Court of First Instance, Zărnești) decided to stay the proceedings and to refer the following question to the Court of Justice for a preliminary ruling:

'Must Article 16 of [the Habitats Directive] be interpreted as requiring the Member States to lay down derogations from Articles 12, 13, 14 and 15(a) and (b) also in cases where the animals belonging to threatened species leave their natural habitat and are in its immediate vicinity or completely outside it?'

## Consideration of the question referred

20 By its question, the referring court asks, in essence, whether Article 12(1)(a) and Article 16 of the Habitats Directive must be interpreted as meaning that the capture and transport of a specimen of a protected animal species, such as the wolf, on the outskirts of an area of human settlement or

within such an area, can be caught by the prohibition laid down in the first of those articles, where a derogation has not been granted by the competent national authority on the basis of the second of those articles.

21 As a preliminary point, it must be recalled that, pursuant to Article 2(1) of the Habitats Directive, the aim of that directive is 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. In addition, under Article 2(2) and (3) of that directive, measures taken pursuant to the directive are to be designed to maintain or restore, at a favourable conservation status, natural habitats and species of wild fauna and flora of interest to the European Union, and are to take account of economic, social and cultural requirements and regional and local characteristics.

22 Article 12(1)(a) of the Habitats Directive requires Member States to take the requisite measures to establish a system of strict protection for protected animal species in their natural range, prohibiting all forms of deliberate capture or killing of specimens of those species in the wild.

23 In order to comply with that provision, the Member States must not only adopt a comprehensive legislative framework but also implement concrete and specific protection measures. Similarly, the system of strict protection presupposes the adoption of coherent and coordinated measures of a preventive nature. Such a system of strict protection must therefore enable the actual avoidance of deliberate capture or killing in the wild of specimens of protected animal species (see, to that effect, judgments of 17 April 2018, *Commission* v *Poland (Białowieża Forest)*, C-441/17, EU:C:2018:255, paragraph 231 and the case-law cited, and of 10 October 2019, *Luonnonsuojeluyhdistys Tapiola*, C-674/17, EU:C:2019:851, paragraph 27).

24 Even though Article 16(1) of the Habitats Directive allows Member States to derogate from the provisions of Articles 12 to 14 and Article 15(a) and (b) thereof, a derogation adopted on that basis, in so far as it allows those Member States to sidestep the obligations under the system of strict protection of natural species, is subject to the conditions that there is no satisfactory alternative and that that derogation is not detrimental to the maintenance of the populations of the species concerned at a favourable conservation status in their natural range. Those conditions relate to all situations covered by Article 16(1) of that directive (judgment of 10 October 2019, *Luonnonsuojeluyhdistys Tapiola*, C-674/17, EU:C:2019:851, paragraphs 28 and 29).

25 It must also be noted that Article 16(1) of the Habitats Directive, which defines in precise and exhaustive manner the circumstances in which Member States may derogate from Articles 12 to 14 and Article 15(a) and (b) thereof, constitutes an exception to the system of protection provided for by that directive, which must be interpreted restrictively and which imposes on the authority taking the decision the burden of proving that those conditions are present for each derogation (judgment of 10 October 2019, *Luonnonsuojeluyhdistys Tapiola*, C-674/17, EU:C:2019:851, paragraph 30).

26 Furthermore, it must be recalled that the *canis lupus* species, commonly referred to as the ‘wolf’, is one of the animal species protected by the Habitats Directive.

27 It is in the light of those preliminary considerations that the question submitted by the referring court must be examined.

28 That court asks whether the scheme for the protection of threatened species provided for in Article 12 of the Habitats Directive covers the natural environment of those species only and, therefore, no longer applies where a specimen belonging to such an animal species goes to an area of human settlement or to the outskirts of such an area. The request made by that court thus concerns the proper interpretation of the concept of 'natural range' and of the words 'in the wild', which appear in Article 12(1) of the Habitats Directive, and the scope of the protection arising therefrom.

29 It must be recalled that, in accordance with settled case-law, in 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 (judgment of 21 November 2019, *Procureur-Generaal bij de Hoge Raad der Nederlanden*, C-678/18, EU:C:2019:998, paragraph 31 and the case-law cited).

30 With regard, in the first place, to the wording of Article 12 of the Habitats Directive, it must be observed that it does not provide any useful guidance for the purposes of defining the concept of 'natural range' or the words 'in the wild'.

31 It may, however, be noted that that article does not base the protection required by it on the concept of 'natural habitat' and that it does not lay down a system of protection for specimens of protected animal species according to the location, place or habitat where those species are situated at a particular time.

32 With regard, in the second place, to the context in which Article 12 of the Habitats Directive occurs, it must be noted that neither Article 1 nor any other provision of that directive defines that concept or those words. Consideration must therefore be given to the concept of 'natural range' and the words 'in the wild' contained in paragraph 1 of that article in the light of the related concepts defined and/or used in that directive.

33 In that regard, it must be observed that the Habitats Directive consists of two sections devoted, first, to the conservation of natural habitats by means, inter alia, of the designation of protected sites and, second, to the conservation of wild fauna and flora through the designation of protected species.

34 However, that directive does not require that the protection offered under the second of those two sections is established in line with the first of those sections and, in particular, according to the geographical area covered by the protected sites or natural habitats.

35 In addition, as the Advocate General observed in point 29 of her Opinion, in accordance with Articles 3 to 6 of the Habitats Directive, natural habitats are to be protected as part of the conservation areas comprising the Natura 2000 network. At the same time, however, that network includes the 'habitats of a species', defined separately in Article 1(f) of the directive, in which the species listed in Annex II to that directive live. Since the wolf appears in that annex, Member States are required to determine conservation areas for that species.

36 It must be stated that the concept of a 'habitat of a species' contained in Article 1(f) of the Habitats Directive, which is defined as the 'environment defined by specific abiotic and biotic factors, in which the species lives at any stage of its biological cycle', is not a territory with fixed and immutable boundaries.

37 Moreover, as the Advocate General stated in point 42 of her Opinion, the rules laid down in the Habitats Directive with respect to the protection of sites show that the protection of animal species cannot be confined to the protected sites. Protected sites were not demarcated with the aim of covering the entire habitat of the protected species, which may range over wide areas. In the case of such species, Article 4(1) of the Habitats Directive provides that Member States are to propose a list of sites indicating which natural habitat types in Annex I and which species in Annex II that are native to its territory the sites host. That provision explains that, for animal species ranging over wide areas, those sites of natural habitats correspond to the places within the natural range of such species which present the physical or biological factors essential to their life and reproduction.

38 Accordingly, as regards protected animal species which, like the wolf, range over wide areas, the concept of 'natural range' is broader than the geographical area that presents the physical or biological factors essential to their life and reproduction. As the Advocate General observed in point 37 of her Opinion, that range corresponds to the geographical area in which the animal species concerned is present or distributed in the course of its natural behaviour.

39 It follows from the foregoing that the protection provided for in Article 12(1) of the Habitats Directive does not include limits or boundaries and, therefore, the view cannot be taken that a wild specimen of a protected animal species located in the vicinity of or within areas of human settlement, crossing such areas or feeding on resources produced by humans, is an animal which has left its 'natural range', or that that range is incompatible with human settlements or man-made developments.

40 The same finding follows from a reading of the guidance document on the strict protection of animal species of Community interest under the Habitats Directive 92/43/EEC (final version, February 2007), which describes 'natural range' as a dynamic concept which is not identical to the 'area actually occupied or territory where a habitat, species or sub-species permanently occurs'.

41 As the Advocate General observed in points 38 and 40 of her Opinion, that interpretation is further borne out by the definition contained in Article 1(1)(f) of the Convention on the conservation of migratory species of wild animals, signed in Bonn on 23 June 1979 and concluded on behalf of the Community by Council Decision 82/461/EEC of 24 June 1982 (OJ 1982 L 210, p. 10). According to that definition, 'range' means all the areas of land or water that a migratory species inhabits, stays in temporarily, crosses or overflies at any time on its normal migration route. Thus, the definition of the concept of the 'range' of a species encompasses areas of any kind crossed by that species.

42 In addition, it would be inconsistent to define the concepts of 'natural range' and 'range' contained in those two legal instruments differently and, thereby, to cause the respective scope of those instruments to diverge.

43 The view must therefore be taken that it follows from the context in which Article 12 of the Habitats Directive occurs that the territorial scope of that article may, in relation to a protected species such as the wolf, cover areas located outside protected sites and, in particular, include areas of human settlement.

44 That finding cannot be rebutted on the basis of the use of the words 'in the wild' in Article 12(1)(a) and (c) of the Habitats Directive. It must be understood as meaning that the strict protection for protected animal species by means of the prohibitions laid down in Article 12(1) of that directive

applies not only in specific places, but covers all specimens of the protected animal species living in the wild or as wild animals and thus performing a function within the natural ecosystems, without necessary applying to those specimens which are being lawfully held in captivity.

45 Those words do not appear in paragraph 1(b), under which specimens of protected animal species cannot be disturbed 'during the period of breeding, rearing, hibernation and migration', or in paragraph 1(d) of Article 12. It is therefore indisputable that the prohibitions laid down in Article 12(1)(b) and (d) of the Habitats Directive apply to all specimens of the protected animal species, regardless of where they are found. In addition, it must be noted that the capture and, a fortiori, the killing of a specimen of these species must be regarded, at the very least, as a disturbance.

46 With regard, in the third place, to the objective pursued by the Habitats Directive, it must be recalled that Articles 12, 13 and 16 of that directive form a coherent body of provisions intended to protect the populations of the species concerned (judgment of 20 October 2005, *Commission* v *United Kingdom*, C-6/04, EU:C:2005:626, paragraph 112). The common objective of those provisions consists in providing strict protection of the protected animal species, by means of the prohibitions laid down in Article 12(1) of that directive, since the exceptions are permitted only in the strict conditions set out in Article 16(1) of the directive, which must be interpreted restrictively (see, to that effect, judgments of 10 May 2007, *Commission* v *Austria*, C-508/04, EU:C:2007:274, paragraphs 109 to 112, and of 15 March 2012, *Commission* v *Poland*, C-46/11, not published, EU:C:2012:146, paragraph 29).

47 The system of protection provided for in Article 12 of the Habitats Directive must therefore be capable of effectively preventing harm being caused to the protected animal species.

48 In addition, it would be incompatible with that objective to deny protection to specimens of protected animal species systematically where their 'natural range' extends to areas of human settlement.

49 However, an interpretation to the effect that the 'natural range' of such species, to which reference is made in Article 12(1) of the Habitats Directive, also includes areas located outside protected sites and that the resulting protection is therefore not restricted to those sites is such as to allow the objective of prohibiting the killing or capture of specimens of protected animal species to achieved. The aim is to protect such species not only in certain restrictively defined places but also the specimens of those species living in the wild or as wild animals and thus performing a function within the natural ecosystems.

50 As the Commission pointed out, in a number of regions of the European Union wolves live in areas occupied by humans, in the immediate vicinity of man-made developments. The conversion of such spaces as a result of human action has also resulted in the partial adaptation of the wolves to those new circumstances. As is clear from the documents available to the Court, the development of infrastructure, unlawful logging, farms and some industrial activities have contributed to putting a strain on the wolf population and its habitat. It is also clear from those documents that the facts at issue in the main proceedings occurred in Șimon, a village located between two large protected sites in which wolf populations live, such that wolf migration between those sites may take place.

51 It follows from the foregoing that interpreting the concept of 'natural range' and the words 'in the wild', which appear in Article 12(1)(a) of the Habitats Directive, to the effect that areas of human settlement are excluded from the scope of the provisions on the protection of protected animal species would be inconsistent not only with the wording and the context of that provision, but also with the objective pursued by it.

52 Accordingly, it must be stated that the obligation to provide strict protection for the protected animal species, in accordance with Article 12 et seq. of the Habitats Directive, applies to the entire 'natural range' of those species, whether those species are in their natural habitat, in protected areas, or, conversely, in the vicinity of human developments.

53 Moreover, it must be observed that several grounds for derogation laid down in Article 16(1) of the Habitats Directive expressly refer to the conflicts that may arise if a specimen of a protected animal species comes in to contact, or even conflict, with humans or their property, inter alia in situations such as those described in paragraph 50 of this judgment.

54 In this regard, the referring court asks whether any form of deliberate capture of specimens of protected animal species is prohibited where a derogation has not been granted by the competent national authority on the basis of that provision.

55 As is clear from the case-law recalled in paragraph 23 of this judgment, it is for the Member Stated concerned, in this connection, to adopt a comprehensive legislative framework, which may include, in accordance with Article 16(1)(b) and (c) of the Habitats Directive, measures intended to prevent serious damage, in particular to crops or livestock, or measures adopted in the interests of public health and public safety, or for other imperative reasons of overriding public interest, including those of a social or economic nature.

56 The capture and transport of a specimen of a protection animal species covered by the prohibitions laid down in Article 12(1) of the Habitats Directive can therefore be justified only if they are covered by a derogation adopted by the competent national authority pursuant to Article 16(1)(b) and (c) of that directive, based inter alia on public safety grounds.

57 To that end, it is for the Member State concerned to adopt provisions which allow, where necessary, such derogations to be granted effectively and in good time.

58 Furthermore, it must be recalled that, in addition to the abovementioned grounds for derogation, Article 16(1) of the Habitats Directive explicitly requires that there is no satisfactory alternative and 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. It is for the competent national authorities to establish that that is the case, taking account in particular of the best relevant scientific and technical evidence and in the light of the circumstances of the specific situation in question (see, to that effect, judgment of 10 October 2019, *Luonnonsuojeluyhdistys Tapiola*, C-674/17, EU:C:2019:851, paragraphs 51 and 66).

59 It thus falls to the referring court to determine the conditions in which the specimen of the protected animal species at issue in the main proceedings was sedated and transported to the Libearty natural reserve in Zărnești and to what extent that operation constitutes a 'deliberate capture' within the meaning of Article 12(1)(a) of the Habitats Directive conducted on the basis

of a derogation adopted in compliance with the requirements laid down in Article 16 of that directive. That court must also ensure that account is taken of the impact of such an operation on the conservation status of the wolf population.

60 Furthermore, one relevant factor in the context of determining the applicable penalty, in the present case, for the failure to comply with the obligations under Article 12(1)(a) and Article 16(1) of the Habitats Directive is the fact, noted by the Advocate General in point 69 of her Opinion, that the national legislation made it impossible to take appropriate action in response to the behaviour of the wolf in question in the main proceedings in a quicker time and thus minimise the associated risks at an early stage. Nor does it appear that the national legal framework includes scientifically based regulations or guidelines in that connection.

61 In the light of the foregoing, it appears that the capture and transport of the wolf at issue in the main proceedings cannot be regarded as having been authorised in the light of Article 12(1)(a) and Article 16(1) of the Habitats Directive; this is for the referring court to determine.

62 In the light of all the foregoing considerations, the question referred must be answered as follows:

– Article 12(1)(a) of the Habitats Directive must be interpreted as meaning that the capture and transport of a specimen of an animal species protected under Annex IV to that directive, such as the wolf, on the outskirts of an area of human settlement or within such an area can be caught by the prohibition laid down in that provision.

– Article 16(1) of the directive must be interpreted as meaning that any form of deliberate capture of specimens of that animal species in the abovementioned circumstances is prohibited where a derogation has not been granted by the competent national authority on the basis of that provision.

## Costs

63 Since these proceedings are, for the parties to the main proceedings, a step in the action pending before the national 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 (Second Chamber) hereby rules:

**Article 12(1)(a) 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 Directive 2013/17/EU of 13 May 2013, must be interpreted as meaning that the capture and transport of a specimen of an animal species protected under Annex IV to that directive, such as the wolf, on the outskirts of an area of human settlement or within such an area can be caught by the prohibition laid down in that provision.**

**Article 16(1) of that directive must be interpreted as meaning that any form of deliberate capture of specimens of that animal species in the abovementioned circumstances is prohibited where a derogation has not been granted by the competent national authority on the basis of that provision.**

[Signatures]