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CÚIRT BHREITHIÚNAIS NA gCÓMHPHOBAL EORPACH  
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TRIBUNAL DE JUSTIÇA DAS COMUNIDADES EUROPEIAS  
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EUROPEISKA GEMENSKAPERNAS DOMSTOL

Press and Information

**PRESS RELEASE No 04/05**

13 January 2005

Judgment of the Court of Justice in Case C-117/03

*Società Italiana Dragaggi SpA and Others v Ministero delle Infrastrutture e dei Trasporti and Regione Autonoma del Friuli Venezia Giulia*

**THE PROTECTIVE REGIME LAID DOWN BY THE DIRECTIVE ON THE  
CONSERVATION OF NATURAL HABITATS APPLIES ONLY TO SITES THAT  
HAVE BEEN PLACED ON THE LIST OF SITES OF COMMUNITY IMPORTANCE  
ESTABLISHED BY THE COMMISSION**

*The Member States must nevertheless appropriately protect sites having an ecological interest that are included on national lists forwarded to the Commission.*

The directive on the conservation of natural habitats<sup>1</sup> is intended to ensure that habitats and species are maintained in a favourable state of conservation. It provides for the setting up of a European ecological network ('Natura 2000') in several stages: Each Member State proposes to the Commission a list of sites hosting natural habitats and species indigenous to its territory; the Commission establishes on that basis a list of sites of Community importance; finally, the Member State is required to designate the site of Community importance as a special area of conservation.

The Habitats Directive was transposed in Italy in 1997<sup>2</sup>. The Italian legislation ties conservation measures for sites to establishment by the Commission of the list of sites of Community importance.

On 14 May 2001, Società Italiana Dragaggi SpA was awarded a contract relating to dredging works and the dumping of the sediment on reclaimed land in the port of Monfalcone, situated

<sup>1</sup> 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').

<sup>2</sup> Decree No 357 of the President of the Republic of 8 September 1997 entitled 'Regulation implementing Directive 92/43/EEC on the conservation of natural habitats and of wild fauna and flora' (GURI No 248, 'supplemento ordinario No 219/L', of 23 October 1997).

in the mouth of the Timavo. Four months later the tender procedure was annulled on the ground that the site on which the sediment was intended to be deposited was classified as a site of Community interest, requiring an impact assessment under the Italian legislation.

Società Italiana Dragaggi SpA contested that decision on the ground that, since the Commission had not yet included the site in question on the list of sites of Community interest, the impact assessment procedure was inapplicable.

The Consiglio di Stato (Council of State) requested the Court of Justice of the European Communities to interpret the Habitats Directive in order to ascertain whether the protective regime for special areas of conservation that is envisaged by that directive is obligatory as soon as the national list is drawn up or only once the Commission has established the list of sites selected as sites of Community interest.

The Court of Justice states first of all that that **protective regime** applies only to **sites that have been placed on the Commission's list**.

Nevertheless, the Member States are required to protect appropriately sites eligible for identification as sites of Community importance as soon as they have proposed them to the Commission, in order not to compromise achievement of the objectives of conservation of natural habitats and wild fauna and flora that are pursued by the Habitats Directive.

Consequently, in the case of sites eligible for identification as sites of Community importance which are included in the national lists transmitted to the Commission and, in particular, sites hosting priority natural habitat types or priority species, the Member States are, by virtue of the Habitats Directive, required to take protective measures that are appropriate, from the point of view of that directive's conservation objective, for the purpose of safeguarding the relevant ecological interest covered by the directive which those sites have at national level.

*Unofficial document, for media use only, which does not bind the Court of Justice.*

*Available languages: FR, EN, DE, IT*

*The full text of the judgment can be found on the Court's internet site*

*<http://curia.eu.int/jurisp/cgi-bin/form.pl?lang=en>*

*In principle it will be available from midday CET on the day of delivery.*

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