

**Judgment of the Court (Fourth Chamber) of 20 October 2011 (reference for a preliminary ruling from the Court of Appeal in Northern Ireland (United Kingdom)) — Department of the Environment for Northern Ireland v Seaport (NI) Ltd, Magherafelt District Council, F P McCann (Developments) Ltd, Younger Homes Ltd, Heron Brothers Ltd, G Small Contracts, Creagh Concrete Products Ltd**

(Case C-474/10) <sup>(1)</sup>

*(Reference for a preliminary ruling — Directive 2001/42/EC — Article 6 — Designation, for consultation purposes, of an authority likely to be concerned by the environmental effects of implementing plans and programmes — Possibility of authority to be consulted conceiving plans or programmes — Requirement to designate a separate authority — Arrangements for the information and consultation of the authorities and the public)*

(2011/C 362/14)

Language of the case: English

#### Referring court

Court of Appeal in Northern Ireland

#### Parties to the main proceedings

*Appellant:* Department of the Environment for Northern Ireland

*Respondents:* Seaport (NI) Ltd, Magherafelt District Council, F P McCann (Developments) Ltd, Younger Homes Ltd, Heron Brothers Ltd, G Small Contracts, Creagh Concrete Products Ltd

#### Re:

Reference for a preliminary ruling — Court of Appeal in Northern Ireland — Interpretation of Articles 6(2), 6(3) and 6(4) of Directive 2001/42/EC of the European Parliament and of the Council of 27 June 2001 on the assessment of the effects of certain plans and programmes on the environment (OJ 2001 L 197, p. 30) — Designation, as authority to be consulted, of an authority likely to be concerned by the environmental effects of the implementation of plans and programmes — Rules relating to informing and consulting authorities and the public.

#### Operative part of the judgment

1. *In circumstances such as those in the main proceedings, Article 6(3) of Directive 2001/42/EC of the European Parliament and of the Council of 27 June 2001 on the assessment of the effects of certain plans and programmes on the environment does not require that another authority to be consulted as provided for in that provision be created or designated, provided that, within the authority usually responsible for undertaking consultation on environmental matters and designated as such, a functional separation is organised so that an administrative entity internal to it has real*

*autonomy, meaning, in particular, that it is provided with administrative and human resources of its own and is thus in a position to fulfil the tasks entrusted to authorities to be consulted as provided for in Article 6(3) and, in particular, to give an objective opinion on the plan or programme envisaged by the authority to which it is attached.*

2. *Article 6(2) of Directive 2001/42 must be interpreted as not requiring that the national legislation transposing the directive lay down precisely the periods within which the authorities designated and the public affected or likely to be affected for the purposes of Article 6(3) and (4) should be able to express their opinions on a particular draft plan or programme and on the environmental report upon it. Consequently, Article 6(2) does not preclude such periods from being laid down on a case-by-case basis by the authority which prepares the plan or programme. However, in that situation, Article 6(2) requires that, for the purposes of consultation of those authorities and the public on a given draft plan or programme, the period actually laid down be sufficient to allow them an effective opportunity to express their opinions in good time on that draft plan or programme and on the environmental report upon it.*

<sup>(1)</sup> OJ C 13, 15.1.2011.

**Reference for a preliminary ruling from the Bundesgerichtshof (Germany) lodged on 5 September 2011 — Verwertungsgesellschaft Wort (VG Wort) v Kyocera Mita Deutschland GmbH and Others**

(Case C-457/11)

(2011/C 362/15)

Language of the case: German

#### Referring court

Bundesgerichtshof

#### Parties to the main proceedings

*Applicant:* Verwertungsgesellschaft Wort (VG Wort)

*Defendants:* Kyocera Mita Deutschland GmbH, Epsom Deutschland GmbH, Xerox GmbH

#### Questions referred

The following questions concerning the interpretation of Directive 2001/29/EC <sup>(1)</sup> of the European Parliament and of the Council of 22 May 2001 on the harmonisation of certain aspects of copyright and related rights in the information society are hereby referred to the Court of Justice of the European Union for a preliminary ruling: