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Parties

In Case C 416/10,	V zadevi C 416/10,
REQUEST for a preliminary ruling under Article 267 TFEU from the Najvyšší súd Slovenskej republiky (Slovakia), made by decision of 17 August 2010, received at the Court on 23 August 2010, in the proceedings	katere predmet je predlog za sprejetje predhodne odločbe na podlagi člena 267 PDEU, ki ga je vložilo Najvyšší súd Slovenskej republiky (Slovaška) z odločbo z dne 17. avgusta 2010, ki je prispela na Sodišče 23. avgusta 2010, v postopku
Jozef Križan,	Jozef Križan ,
Katarína Aksamitová,	Katarína Aksamitová ,
Gabriela Kokošková,	Gabriela Kokošková ,
Jozef Kokoška,	Jozef Kokoška ,
Martina Strezenická,	Martina Strezenická ,
Jozef Strezenický,	Jozef Strezenický ,
Peter Šidlo,	Peter Šidlo ,
Lenka Šidlová,	Lenka Šidlová ,
Drahoslava Šidlová,	Drahoslava Šidlová ,
Milan Šimovič,	Milan Šimovič ,
Elena Šimovičová,	Elena Šimovičová ,
Stanislav Aksamit,	Stanislav Aksamit ,
Tomáš Pitoňák,	Tomáš Pitoňák ,
Petra Pitoňáková,	Petra Pitoňáková ,
Mária Križanová,	Mária Križanová ,
Vladimír Mizerák,	Vladimír Mizerák ,
Ľubomír Pevný,	Ľubomír Pevný ,
Darina Brunovská,	Darina Brunovská ,
Mária Fišerová,	Mária Fišerová ,
Lenka Fišerová,	Lenka Fišerová ,
Peter Zvolenský,	Peter Zvolenský ,
Katarína Zvolenská,	Katarína Zvolenská ,
Kamila Mizeráková,	Kamila Mizeráková ,
Anna Konfráterová,	Anna Konfráterová ,
Milan Konfráter,	Milan Konfráter ,
Michaela Konfráterová,	Michaela Konfráterová ,
Tomáš Pavlovič,	Tomáš Pavlovič ,
Jozef Krivošík,	Jozef Krivošík ,
Ema Krivošíková,	Ema Krivošíková ,
Eva Pavlovičová,	Eva Pavlovičová ,
Jaroslav Pavlovič,	Jaroslav Pavlovič ,
Pavol Šipoš,	Pavol Šipoš ,
Martina Šipošová,	Martina Šipošová ,
Jozefína Šipošová,	Jozefína Šipošová ,
Zuzana Šipošová,	Zuzana Šipošová ,
Ivan Čaputa,	Ivan Čaputa ,
Zuzana Čaputová,	Zuzana Čaputová ,
Štefan Strapák,	Štefan Strapák ,
Katarína Strapáková,	Katarína Strapáková ,
František Slezák,	František Slezák ,
Agnesa Slezáková,	Agnesa Slezáková ,
Vincent Zimka,	Vincent Zimka ,
Elena Zimková,	Elena Zimková ,
Marián Šipoš,	Marián Šipoš ,
Mesto Pezinok	Mesto Pezinok

v	proti
Slovenská inšpekcia životného prostredia,	Slovenská inšpekcia životného prostredia ,
intervener:	ob udeležbi
Ekologická skládka as,	Ekologická skládka as ,
THE COURT (Grand Chamber),	SODIŠČE (veliki senat),
composed of V. Skouris, President, K. Lenaerts, Vice-President, A. Tizzano, M. Ilešič, L. Bay Larsen (Rapporteur), J. Malenovský, Presidents of Chambers, A. Borg Barthet, J.-C. Bonichot, C. Toader, J. J. Kasel and M. Safjan, Judges,	v sestavi V. Skouris, predsednik, K. Lenaerts, podpredsednik, A. Tizzano, M. Ilešič, L. Bay Larsen (poročevalec), J. Malenovský, predsedniki senatov, A. Borg Barthet, J. C. Bonichot, sodnika, C. Toader, sodnica, J. J. Kasel in M. Safjan, sodnika,
Advocate General: J. Kokott,	generalna pravobranilka: J. Kokott,
Registrar: C. Strömholm, Administrator,	sodna tajnica: C. Strömholm, administratorka,
having regard to the written procedure and further to the hearing on 17 January 2012,	na podlagi pisnega postopka in obravnave z dne 17. januarja 2012,
after considering the observations submitted on behalf of:	ob upoštevanju stališč, ki so jih predložili:
– Jozef Križan, Katarína Aksamitová, Gabriela Kokošková, Jozef Kokoška, Martina Strezenická, Jozef Strezenický, Peter Šidlo, Lenka Šidlová, Drahoslava Šidlová, Milano Šimovič, Elena Šimovičová, Stanislav Aksamit, Tomáš Pitoňák, Petra Pitoňáková, Mária Križanová, Vladimír Mizerák, Ľubomír Pevný, Darina Brunovská, Mária Fišerová, Lenka Fišerová, Peter Zvolenský, Katarína Zvolenská, Kamila Mizeráková, Anna Konfráterová, Milano Konfráter, Michaela Konfráterová, Tomáš Pavlovič, Jozef Krivošík, Ema Krivošíková, Eva Pavlovičová, Jaroslav Pavlovič, Pavol Šipoš, Martina Šipošová, Jozefína Šipošová, Zuzana Šipošová, Ivan Čaputa, Zuzana Čaputová, Štefan Strapák, Katarína Strapáková, František Slezák, Agnesa Slezáková, Vincent Zimka, Elena Zimková, Marián Šipoš, by T. Kamenec and Z. Čaputová, advokáti,	– za Jozefa Križana, Kataríno Aksamitovo, Gabrielo Kokoškovo, Jozefa Kokoško, Martino Strezenicko, Jozefa Strezenickega, Petra Šidlo, Lenko Šidlovo, Drahoslava Šidlovo, Milana Šimoviča, Eleno Šimovičovo, Stanislava Aksamita, Tomáša Pitoňáka, Petro Pitoňákovo, Mário Križanovo, Vladimírja Mizeráka, Ľubomíra Pevnýja, Darino Brunovsko, Mário Fišerovo, Lenko Fišerovo, Petra Zvolenskega, Kataríno Zvolensko, Kamilo Mizerákovo, Anno Konfráterovo, Milana Konfrátra, Michaelo Konfráterovo, Tomáša Pavloviča, Jozefa Krivošíka, Emo Krivošíkovo, Evo Pavlovičovo, Jaroslava Pavloviča, Pavola Šipoša, Martino Šipošovo, Jozefíno Šipošovo, Zuzano Šipošovo, Ivana Čaputo, Zuzano Čaputovovo, Štefana Strapáka, Kataríno Strapákovo, Františka Slezáka, Agneso Slezákovo, Vincenta Zimko, Eleno Zimkovo, Mariána Šipoša T. Kamenec in Z. Čaputová, odvetnika,
– Mesto Pezinok, by J. Ondruš and K. Sováková, advokáti,	– za Mesto Pezinok J. Ondruš in K. Sováková, odvetnika,
– Slovenská inšpekcia životného prostredia, by L. Fogaš, advokát,	– za Slovenská inšpekcia životného prostredia L. Fogaš, odvetnik,
– Ekologická skládka as, by P. Kováč, advokát,	– za Ekologická skládka as P. Kováč, odvetnik,
– the Slovak Government, by B. Ricziová, acting as Agent,	– za slovaško vlado B. Ricziová, agentka,
– the Czech Government, by M. Smolek and. D. Hadroušek, acting as Agents,	– za češko vlado M. Smolek in. D. Hadroušek, agenta,
– the French Government, by S. Menez, acting as Agent,	– za francosko vlado S. Menez, agent,
– the Austrian Government, by C. Pesendorfer, acting as Agent,	– za avstrijsko vlado C. Pesendorfer, agentka,
– the European Commission, by P. Oliver and A. Tokár, acting as Agents,	– za Evropsko komisijo P. Oliver in A. Tokár, agenta,
after hearing the Opinion of the Advocate General at the sitting on 19 April 2012,	po predstavitvi sklepnih predlogov generalne pravobranilke na obravnavi 19. aprila 2012
gives the following	izreka naslednjo
Judgment	Sodbo

Grounds

1. This request for a preliminary ruling concerns the interpretation of the Convention on access to information, public participation in decision-making and access to justice in environmental matters, signed in Aarhus on 25 June 1998 and approved on behalf of the European Community by Council Decision 2005/370/EC of 17 February 2005 (OJ 2005 L 124, p. 1) ('the Aarhus Convention'), of Articles 191(1) and (2) TFEU and 267 TFEU, of Council Directive 85/337/EEC of 27 June 1985 on the assessment of the effects of certain public and private projects on the environment (OJ 1985 L 175, p. 40), as amended by Directive 2003/35/EC of the European Parliament and of the Council of 26 May 2003 (OJ 2003 L 156, p. 17) ('Directive 85/337'), and of Council Directive 96/61/EC of 24 September 1996 concerning integrated pollution prevention and control (OJ 1996 L 257, p. 26), as amended by Regulation (EC) No 166/2006 of the European Parliament and of the Council of 18 January 2006 (OJ 2006 L 33, p. 1) ('Directive 96/61').	1. Predlog za sprejetje predhodne odločbe se nanaša na razlago Konvencije o dostopu do informacij, udeležbi javnosti pri odločanju in dostopu do pravnega varstva v okoljskih zadevah, ki je bila podpisana v Aarhusu 25. junija 1998 in je bila v imenu Evropske skupnosti odobrena s Sklepom Sveta 2005/370/ES z dne 17. februarja 2005 (UL L 124, str. 1, v nadaljevanju: Aarhuška konvencija), členov 191(1) in (2) PDEU ter 267 PDEU, Direktive Sveta 85/337/EGS z dne 27. junija 1985 o presoji vplivov nekaterih javnih in zasebnih projektov na okolje (UL L 175, str. 40), kakor je bila spremenjena z Direktivo Evropskega parlamenta in Sveta 2003/35/ES z dne 26. maja 2003 (UL L 156, str. 17, v nadaljevanju: Direktiva 85/337), ter Direktive Sveta 96/61/ES z dne 24. septembra 1996 o celovitem preprečevanju in nadzorovanju onesnaževanja (UL L 257, str. 26), kakor je bila spremenjena z Uredbo (ES) št. 166/2006 Evropskega parlamenta in Sveta z dne 18. januarja 2006 (UL L 33, str. 1, v nadaljevanju: Direktiva 96/61).
2. This request has been made in proceedings between, on the one hand, Mr Križan and 43 other appellants, natural persons, residents of the town of Pezinok, as well as Mesto Pezinok (town of Pezinok), and, on the other, the Slovenská inšpekcia životného prostredia (Slovak Environment Inspection; 'the inšpekcia') concerning the lawfulness of decisions of the administrative authority authorising the construction and operation by Ekologická skládka as ('Ekologická skládka'), the intervener in the main proceedings, of a landfill site for waste.	2. Ta predlog je bil vložen v okviru spora med J. Križanom in 43 drugimi tožečimi strankami, fizičnimi osebami, prebivalci Mesta Pezinok in Slovenská inšpekcia životného prostredia (slovaška inšpekcija za okolje, v nadaljevanju: inšpekcija) glede zakonitosti odločb upravnega organa, ki je odobril gradnjo in uporabo odlagališča odpadkov družbi Ekologická skládka as (v nadaljevanju: Ekologická skládka), intervenientki v postopku v glavni stvari.
Legal context	Pravni okvir
International law	Mednarodno pravo
3. Article 6 of the Aarhus Convention, entitled 'Public participation in decisions on specific activities', provides in paragraphs 1, 2, 4 and 6:	3. Člen 6 Aarhuške konvencije, naslovljen „Udeležba javnosti pri odločanju o posebnih dejavnostih", v odstavkih 1, 2, 4 in 6 določa:
'1. Each party:	„1. Vsaka pogodbenica:
(a) shall apply the provisions of this article with respect to decisions on whether to permit proposed activities listed in Annex I;	(a) pri odločanju o dovoljenju za predlagane dejavnosti, naštete v Prilogi I, uporablja določbe tega člena;
…	[…]
2. The public concerned shall be informed, either by public notice or individually	2. Vključeno javnost je treba na začetku postopka okoljskega odločanja

as appropriate, early in an environmental decision-making procedure, and in an adequate, timely and effective manner, inter alia, of:	ustrezno, pravočasno in učinkovito obvestiti z javno objavo ali vsakogar posebej, če je to primerno, med drugim o:
...	[…]
(d) the envisaged procedure, including, as and when this information can be provided:	(d) predvidenem postopku, in takoj ko je informacija na razpolago, o:
...	[…]
(iv) an indication of the public authority from which relevant information can be obtained and where the relevant information has been deposited for examination by the public;	(iv) organu javne oblasti, pri katerem je mogoče dobiti ustrezno informacijo, in o tem, kje se ustrezne informacije hranijo, da jih javnost lahko pregleda;
...	[…]
4. Each party shall provide for early public participation, when all options are open and effective public participation can take place.	4. Pogodbenica zagotovi udeležbo javnosti že na začetku odločanja, ko so še vse možnosti odprte in lahko javnost učinkovito sodeluje."
...	[…]
6. Each party shall require the competent public authorities to give the public concerned access for examination, upon request where so required under national law, free of charge and as soon as it becomes available, to all information relevant to the decision-making referred to in this article that is available at the time of the public participation procedure, without prejudice to the right of Parties to refuse to disclose certain information in accordance [with, in particular, Article 4(4)].	6. Pogodbenica zahteva od pristojnih organov javne oblasti, da vključeni javnosti na podlagi zahtevka, če tako določi notranje pravo, omogočijo dostop do vseh informacij, pomembnih za odločanje po tem členu, brezplačno in takoj, ko so na razpolago, da jih lahko preveri, kar pa ne vpliva na pravico pogodbenic, da zavrnejo razkritje določenih informacij [zlasti v skladu s četrtim odstavkom] člena 4.
...'	[…]"
4. Article 9 of the Aarhus Convention, entitled 'Access to justice', provides in paragraphs 2 and 4:	4. Člen 9 te konvencije, naslovljen „Dostop do sodnega varstva", v odstavkih 2 in 4 določa:
'2. Each party shall, within the framework of its national legislation, ensure that members of the public concerned:	„2. Pogodbenica v okviru svoje notranje zakonodaje zagotovi, da imajo člani vključene javnosti,
...	[…]
(b) ... have access to a review procedure before a court of law and/or another independent and impartial body established by law, to challenge the substantive and procedural legality of any decision, act or omission subject to the provisions of Article 6 and, where so provided for under national law and without prejudice to paragraph 3 below, of other relevant provisions of this Convention.	b) […] dostop do revizijskega postopka pred sodiščem in/ali drugim neodvisnim in nepristranskim telesom, določenim z zakonom, da izpodbijajo stvarno in postopkovno zakonitost katere koli odločitve, dejanja ali opustitve na podlagi določb člena 6, in kadar je to predvideno po notranjem pravu in brez vpliva na tretji odstavek tega člena, tudi drugih ustreznih določb te konvencije.
...	[…]
4. In addition and without prejudice to paragraph 1 above, the procedures referred to in paragraphs 1, 2 and 3 above shall provide adequate and effective remedies, including injunctive relief as appropriate, and be fair, equitable, timely and not prohibitively expensive. …'	4. Poleg tega in brez vpliva na prvi odstavek tega člena morajo postopki iz prvega, drugega in tretjega odstavka tega člena zagotavljati ustrezna in učinkovita pravna sredstva, vključno s sodno prepovedjo, če je ta primerna, in biti morajo pošteni, pravični, pravočasni in ne pretirano dragi. […]"
5. Annex I, section 5, to the Aarhus Convention indicates, under the activities referred to in Article 6(1)(a) thereof:	5. Odstavek 5 Priloge I k Aarhuški konvenciji glede dejavnosti iz člena 6(1)(a) določa:
'Waste management	„Ravnanje z odpadki:
...	[…]
– landfills receiving more than 10 tonnes per day or with a total capacity exceeding 25 000 tonnes, excluding landfills of inert waste.'	– odlagališča, ki sprejmejo več kot 10 ton odpadkov na dan, ali s skupno zmogljivostjo nad 25.000 ton, razen odlagališč za inertne odpadke."
European Union law	Pravo Unije
Directive 85/337	Direktiva 85/337
6. Article 1(2) of Directive 85/337 defines the concept of 'development consent' as 'the decision of the competent authority or authorities which entitles the developer to proceed with the project.'	6. Člen 1(2) Direktive 85/337 opredeljuje izraz „soglasje za izvedbo" kot „odločitev pristojnega organa ali organov, ki dovoljuje nosilcu projekta izvedbo projekta".
7. Article 2 of Directive 85/337 is drafted in the following terms:	7. Člen 2 te direktive določa:
'1. Member States shall adopt all measures necessary to ensure that, before consent is given, projects likely to have significant effects on the environment by virtue, inter alia, of their nature, size or location are made subject to a requirement for development consent and an assessment with regard to their effects. Those projects are defined in Article 4.	„1. Države članice sprejmejo vse potrebne ukrepe za zagotovitev, da so pred izdajo soglasja projekti, ki bodo verjetno pomembno vplivali na okolje, med drugim zaradi svoje narave, velikosti ali lokacije, predmet zahteve za izdajo soglasja za izvedbo in presojo njihovih vplivov. Navedeni projekti so opredeljeni v členu 4.
2. The environmental impact assessment may be integrated into the existing procedures for consent to projects in the Member States, or, failing this, into other procedures or into procedures to be established to comply with the aims of this Directive.	2. Presojo vplivov na okolje se lahko vključi v obstoječe postopke za izdajo soglasja za izvedbo projektov v državah članicah, oziroma, če to ne gre, v druge postopke ali v postopke, ki jih je treba uvesti za usklajenost s cilji te direktive.
...'	[…]"
Directive 96/61	Direktiva 96/61
8. Recital 23 in the preamble to Directive 96/61 states:	8. V uvodni izjavi 23 Direktive 96/61 je navedeno:
'... in order to inform the public of the operation of installations and their potential effect on the environment, and in order to ensure the transparency of the licensing process throughout the Community, the public must have access, before any decision is taken, to information relating to applications for permits for new installations …'	„ker mora imeti javnost zaradi obveščenosti o delovanju obratov in njihovem možnem vplivu na okolje ter zaradi zagotavljanja preglednosti postopkov izdajanja dovoljenj v vsej Skupnosti pred vsako odločitvijo dostop do informacij o vlogah za dovoljenja za nove obrate […]"
9. Article 1 of that directive, entitled 'Purpose and scope', provides:	9. Člen 1 navedene direktive, naslovljen „Cilji in področje uporabe", določa:
'The purpose of this Directive is to achieve integrated prevention and control of pollution arising from the activities listed in Annex I. It lays down measures designed to prevent or, where that is not practicable, to reduce emissions in the air, water and land from the abovementioned activities, including measures concerning waste, in order to achieve a high level of protection of the environment taken as a whole, without prejudice to Directive [85/337] and other relevant Community provisions.'	„Namen te direktive je doseči celovito preprečevanje in nadzorovanje onesnaževanja okolja, ki je posledica dejavnosti, navedenih v Prilogi I. Ta direktiva določa ukrepe za preprečevanje ali, če to ni izvedljivo, za zmanjševanje emisij v zrak, vodo in tla pri navedenih dejavnostih, vključno z ukrepi glede odpadkov, da bi dosegli visoko stopnjo varstva okolja kot celote, brez poseganja v Direktivo [85/337] in druge ustrezne določbe Skupnosti."

10. Article 15 of Directive 96/61, entitled 'Access to information and public participation in the permit procedure', provides:	10. Člen 15 te direktive, naslovljen „Dostop do informacij in sodelovanje javnosti v postopku izdaje dovoljenja", določa:
'1. Member States shall ensure that the public concerned are given early and effective opportunities to participate in the procedure for:	„1. Države članice zagotovijo, da dobi prizadeta javnost zgodnje in učinkovite možnosti sodelovanja v naslednjih postopkih:
– issuing a permit for new installations,	– izdaje dovoljenja za nove naprave;
...	[...]
The procedure set out in Annex V shall apply for the purposes of such participation.	Postopek, določen v Prilogi V, se uporablja za namene takega sodelovanja.
...	[...]
4. [In particular, paragraph 1] shall apply subject to the restrictions laid down in Article 3(2) and (3) of [Council Directive 90/313/EEC of 7 June 1990 on the freedom of access to information on the environment (OJ 1990 L 158, p. 56)]. ...'	4. [Poleg drugih se odstavek 1 uporablja] ob upoštevanju omejitev iz člena 3(2) in (3) Direktive [Sveta] 90/313/EGS [z dne 7. junija 1990 o prostem dostopu do informacij o okolju (UL L 158, str. 56)]. [...]"
11. Article 15a of Directive 96/61, entitled 'Access to justice', reads as follows:	11. Člen 15a Direktive 96/61, naslovljen „Dostop do sodišč", določa:
'Member States shall ensure that, in accordance with the relevant national legal system, members of the public concerned:	„Države članice v skladu z ustrezno nacionalno zakonodajo zagotovijo članom zadevne javnosti:
...	[...]
have access to a review procedure before a court of law or another independent and impartial body established by law to challenge the substantive or procedural legality of decisions, acts or omissions subject to the public participation provisions of this Directive.	dostop do revizijskega postopka pred sodiščem ali pa pred drugim neodvisnim in nepristranskim organom, ki ga je vzpostavil zakon, da izpodbijajo materialno in postopkovno zakonitost odločitev, dejanj ali opustitev ob upoštevanju določb te direktive o sodelovanju javnosti.
...	[...]
Any such procedure shall be fair, equitable, timely and not prohibitively expensive. ...'	Vsak tak postopek mora biti pošten, nepristranski, pravočasen in ne nedopustno drag. [...]"
12. Annex I to Directive 96/61, entitled 'Categories of industrial activities referred to in Article 1', refers, in paragraph 5.4, to '[l]andfills receiving more than 10 tonnes per day or with a total capacity exceeding 25 000 tonnes, excluding landfills of inert waste.'	12. Priloga I k Direktivi 96/61, naslovljena „Vrste industrijskih dejavnosti po členu 1", se v točki 5.4 nanaša na „odlagališča odpadkov, ki sprejmejo več kot 10 ton na dan, ali s skupno zmogljivostjo nad 25.000 ton, razen odlagališč za inertne odpadke".
13. Annex V to Directive 96/61, entitled 'Public participation in decision-making', provides, inter alia:	13. Priloga V k tej direktivi, naslovljena „Sodelovanje javnosti v postopku odločanja", med drugim določa:
'1. The public shall be informed (by public notices or other appropriate means such as electronic media where available) of the following matters early in the procedure for the taking of a decision or, at the latest, as soon as the information can reasonably be provided:	„1. Javnost se obvesti (prek javnih objav ali drugih primernih načinov, na primer razpoložljivih elektronskih medijev) o naslednjih zadevah varstva okolja že na začetni stopnji postopka sprejemanja odločitve in najpozneje takrat, ko jih je mogoče razumno posredovati:
...	[...]
(c) details of the competent authorities responsible for taking the decision, those from which relevant information can be obtained, those to which comments or questions can be submitted, and details of the time schedule for transmitting comments or questions;	(c) podrobni podatki o pristojnih organih, odgovornih za odločanje, tistih, od katerih je mogoče pridobiti ustrezne podatke, in tistih, ki jim je mogoče predložiti pripombe ali vprašanja, in podrobnosti o časovnih rokih za posredovanje pripomb ali vprašanj;
...	[...]
(f) an indication of the times and places where, or means by which, the relevant information will be made available; ...'	(f) navedba rokov in krajev, kje in na kakšen način je ustrezen podatek dostopen; [...]"
Directive 2003/4/EC	Direktiva 2003/4/ES
14. Recital 16 in the preamble to Directive 2003/4/EC of the European Parliament and of the Council of 28 January 2003 on public access to environmental information and repealing Council Directive 90/313 (OJ 2003 L 41, p. 26) is drafted in the following terms:	14. V uvodni izjavi 16 Direktive 2003/4/ES Evropskega parlamenta in Sveta z dne 28. januarja 2003 o dostopu javnosti do informacij o okolju in o razveljavitvi Direktive Sveta 90/313/EGS (UL L 41, str. 26) je navedeno:
'The right to information means that the disclosure of information should be the general rule and that public authorities should be permitted to refuse a request for environmental information in specific and clearly defined cases. Grounds for refusal should be interpreted in a restrictive way, whereby the public interest served by disclosure should be weighed against the interest served by the refusal. The reasons for a refusal should be provided to the applicant within the time-limit laid down in this Directive.'	„Pravica do obveščenosti pomeni, da bi moralo biti razkritje informacij splošno pravilo in da bi moralo biti organom oblasti dovoljeno zavrniti zahtevo za informacije o okolju v posebnih in jasno opredeljenih primerih. Razlogi za zavrnitev bi se morali razlagati restriktivno, pri čemer bi bilo treba tehtati med javnim interesom, ki mu služi razkritje, in interesom, ki mu služi zavrnitev. Prosilcu bi bilo treba sporočiti razloge za zavrnitev v roku, določenem v tej direktivi.".
15. Article 4(2) and (4) of that directive provides, inter alia:	15. Člen 4(2) in (4) te direktive med drugim določa:
'2. Member States may provide for a request for environmental information to be refused if disclosure of the information would adversely affect:	2. Države članice lahko predvidijo, da se zahteva za informacije o okolju zavrne, če bi razkritje informacij negativno vplivalo na:
...	[...]
(d) the confidentiality of commercial or industrial information where such confidentiality is provided for by national or Community law to protect a legitimate economic interest, including the public interest in maintaining statistical confidentiality and tax secrecy;	(d) zaupnosti poslovnih ali industrijskih informacij, kadar tako zaupnost predvideva nacionalna zakonodaja ali zakonodaja Skupnosti zaradi varovanja upravičenih gospodarskih interesov, vključno z javnim interesom pri ohranjanju zaupnosti statističnih podatkov in davčne tajnosti;
...	[...]
The grounds for refusal mentioned [in, inter alia, paragraph 2] shall be interpreted in a restrictive way, taking into account for the particular case the public interest served by disclosure. In every particular case, the public interest served by disclosure shall be weighed against the interest served by the refusal.	Razlogi za zavrnitev [med drugim iz odstavka 2] se razlagajo restriktivno ob upoštevanju javnega interesa, ki mu služi razkritje. V vsakem posameznem primeru se tehta med javnim interesom, ki mu služi razkritje, in interesom, ki mu služi zavrnitev. [...]
...	
...	[...]
4. Environmental information held by or for public authorities which has been requested by an applicant shall be made available in part where it is possible to	4. Informacije o okolju, ki jih hranijo ali se hranijo za organe oblasti, ki jih je zahteval prosilec, se dajo na razpolago delno, če je možno izločiti informacije, ki

separate out any information falling within the scope of paragraphs 1(d) and (e) or 2 from the rest of the information requested.'	sodijo v področje uporabe odstavkov 1(d) in (e) ali 2, od preostalih zahtevanih informacij.“
Directive 2003/35	Direktiva 2003/35/ES
16. Recital 5 in the preamble to Directive 2003/35 provides that European Union law should be properly aligned with the Aarhus Convention with a view to its ratification.	16. V uvodni izjavi 5 Direktive 2003/35 je navedeno, da mora biti zakonodaja Unije ustrezno usklajena z Aarhuško konvencijo, da bi jo ta ratificirala.
Slovak law	Slovaško pravo
Procedural rules	Pravila postopka
17. Article 135(1) of the Code of Civil Procedure provides:	17. Člen 135(1) zakonika o civilnem pravdnem postopku določa:
'... The court is also bound by the decisions of the Ústavný súd Slovenskej republiky [Constitutional Court of the Slovak Republic] or the European Court of Human Rights which affect fundamental rights and freedoms.'	„[…] Sodišče enako zavezujejo odločbe Ústavný súd Slovenskej republiky ali odločbe Evropskega sodišča za človekove pravice, ki se nanašajo na temeljne pravice in svoboščine“.
18. Paragraph 56(6) of Law No 38/1993 Z.z. on the organisation, the rules of procedure and the status of judges of the Ustavný súd Slovenskej republiky, in the version applicable to the facts in the main proceedings, provides:	18. Člen 56(6) zakona št. 38/1993 Rec. o organizaciji, poslovniku in statutu sodnikov Ústavný súd Slovenskej republiky v različici, ki je veljala v času dejanskega stanja spora o glavni stvari, določa:
'If the Ústavný súd Slovenskej republiky annuls a decision, a measure or other valid action and refers the case, the body which, in that case, adopted the decision, took the measure or the action, is required to re-examine the case and to rule afresh. In that procedure or step, it is bound by the právny názor [judicial position] of the Ústavný súd Slovenskej republiky.'	„Če Ústavný súd Slovenskej republiky razveljavi odločbo, ukrep ali drug veljaven akt in zadevo vrne v ponovno odločanje, mora tisti, ki je sprejel odločbo, ukrep ali akt ponovno preučiti zadevo in znova odločiti o njej. V tem postopku je vezan na právny názor [pravno stališče] Ústavný súd Slovenskej republiky.“
The provisions on environmental impact assessments, urban planning rules and integrated permits	Določbe o presoji vplivov na okolje, o lokacijskih predpisih in o integralnih dovoljenjih
– Law No 24/2006 Z.z.	– Zakon št. 24/2006 Rec.
19. Paragraph 1(1) of Law No 24/2006 Z.z. on environmental impact assessments and amending several laws, in the version applicable to the facts in the main proceedings, states:	19. Člen 1(1) zakona št. 24/2006 Rec. o presoji vplivov na okolje in spremembi ter dopolnitvi nekaterih zakonov v različici, ki je veljala v času dejanskega stanja v sporu o glavni stvari, določa:
'The present law governs:	„Ta zakon ureja:
(a) the evaluation process, by professionals and by the public, of the alleged impact on the environment	a) postopek presoje strokovnjakov in javnosti o domnevnih vplivih na okolje;
...	[…]
2. of planned activities before the adoption of the decision on their location or before their authorisation under the specific legislation.	2. projektne dejavnosti pred sprejetjem odločbe o njihovi lokaciji ali pred izdajo dovoljenja na podlagi ustreznih predpisov.
...'	[…]“
20. Paragraph 37 of that law provides:	20. Člen 37 tega zakona določa:
'...	„[…]
6. The period of validity of the final opinion concerning an activity is three years from its issue. The final opinion shall maintain its validity if, during that period, a location procedure or a procedure for a permit for the activity is initiated under the specific legislation.	(6) Končno mnenje glede dejavnosti je veljavno tri leta od dneva njegove izdaje. Končno mnenje ostane veljavno, če se v tem času začne lokacijski postopek ali postopek izdaje dovoljenja za dejavnost na podlagi posebnih predpisov.
7. The validity of the final opinion concerning an activity may be extended by a renewable period of two years at the request of the applicant if he adduces written evidence that the planned activity and the conditions of the land have not undergone substantial changes, that no new circumstance connected to the material content of the assessment report of the activity has arisen and that new technologies used to proceed with the planned activity have not been developed. The decision to extend the validity of the final opinion concerning the activity reverts to the competent body.'	(7) Veljavnost končnega mnenja glede dejavnosti se lahko večkrat podaljša za dve leti, če prosilec predloži pisno dokazilo, da ni prišlo do bistvenih sprememb načrtovane dejavnosti in stanja na zadevnem zemljišču ter novih okoliščin v zvezi z bistvenim predmetom poročila o presoji objekta in da prav tako niso bile razvite nove tehnike za izvedbo predlaganega projekta. Odločitev o podaljšanju veljavnosti končnega mnenja sprejme pristojni organ.“
21. Paragraph 65(5) of that law provides:	21. Člen 65(5) zadevnega zakona določa:
'If the final opinion was issued before 1 February 2006 and if the procedure for the authorisation of the activity subject to the assessment was not initiated under the specific legislation, an extension to its validity must, in accordance with Paragraph 37(7), be requested from the Ministry.'	„Če je bilo končno mnenje izdano pred 1. februarjem 2006 in se postopek izdajanja dovoljenj za dejavnosti, ki so podvržene presoji, na podlagi posebnih predpisov še ni začel, je treba prositi za podaljšanje njegove veljavnosti pri ministrstvu za okolje v skladu s členom 37(7).“
Law No 50/1976 Zb.	– Zakon št. 50/1976 Rec.
22. Paragraph 32 of Law No 50/1976 Zb. on urban planning, in its version applicable to the facts in the main proceedings, provides:	22. Člen 32 zakona št. 50/1976 Rec. s področja urejanja prostora in gradbene ureditve v različici, ki je veljala v času dejanskega stanja spora o glavni stvari, določa:
'Construction of a building, changes to land use and the protection of major interests in the land are possible only on the basis of an urban planning decision taking the form of a	„Lokacija objekta, sprememba rabe zemljišča in varstvo višjih interesov na kraju samem so mogoči le na podlagi lokacijske odločbe v obliki
(a) location decision;	a) odločbe o lokaciji objekta;
...'	[…]“
– Law No 245/2003 Z.z.	– Zakon št. 245/2003 Rec.
23. Paragraph 8(3) and (4) of Law No 245/2003 Z.z. on integrated pollution prevention and control and amending a number of laws, as amended by Law No 532/2005 ('Law No 245/2003'), provides:	23. Člen 8(3) in (4) zakona št. 245/2003 Rec. o celovitem preprečevanju in nadzorovanju onesnaževanja in o spremembi in dopolnitvi nekaterih zakonov, kakor je bil spremenjen z zakonom št. 532/2005 (v nadaljevanju: zakon št. 245/2003), določa:
'(3) Where there is an integrated operating permit, which at the same time requires a permit for a new building or for alterations to an existing building, the procedure shall also include an urban planning procedure, a procedure for changes prior to completion of the building and a procedure for the authorisation of improvements.	„(3) Če gre za integralno uporabno dovoljenje, za katero je hkrati zahtevano dovoljenje za novogradnjo ali spremembo obstoječega objekta, je del postopka tudi lokacijski postopek, postopek za spremembo pred dokončanjem gradnje in postopek odobritve opremljevalnih del.
(4) The urban planning procedure, the assessment of the environmental impact of the installation and the determination of the conditions for the prevention of serious industrial accidents shall not form part of the integrated permit.'	(4) Lokacijski postopek, presoja vplivov obrata na okolje in določitev pogojev v zvezi s preprečevanjem hudih industrijskih nesreč niso del integralnega dovoljenja.“

24. Paragraph 11(2) of that law specifies:	24. Člen 11(2) tega zakona določa:
‘The application [for the integrated permit] must be accompanied by:	„Zahtevi [za izdajo integralnega dovoljenja] je treba priložiti:
…	[…]
(c) the final opinion following from the environment impact assessment procedure, if required due to the operation,	c) končno mnenje iz postopka presoje vplivov na okolje, če uporaba to zahteva,
…	g) lokacijsko odločbo, če gre za nov obrat ali za razširitev obstoječega obrata […]“
(g) the urban planning decision, if it is a new operation or the expansion of an existing operation …’	25. Člen 12 navedenega zakona z naslovom „Začetek postopka“ določa:
25. Paragraph 12 of that law, entitled ‘Commencement of the procedure’, states:	„[…]
‘…	(2) Po ugotovitvi, da je vloga popolna, ter določitvi strank postopka in pristojnih organov uprava
(2) After having confirmed that the application is complete and specified the group of parties involved in the procedure and the bodies concerned, the administration	[…]
…	c) […] objavi vlogo na svoji spletni strani, razen prilog, ki niso dostopne v elektronski obliki, in za vsaj 15 dni objavi na svoji oglasni deski bistvene podatke o vloženi vlogi, uporabniku in uporabi,
(c) … shall publish the application on its internet page, with the exception of the annexes which are not available in an electronic form, and, for a minimum period of 15 days, shall publish in its official list the essential information on the application lodged, the operator and the operation,	[…]“
…’	Spor o glavni stvari in vprašanja za predhodno odločanje
The dispute in the main proceedings and the questions referred for a preliminary ruling	Upravni postopek
The administrative procedure	26. Mesto Pezinok je 26. junija 1997 sprejelo splošno uredbo št. 2/1997 o prostorskem načrtu, ki je med drugim določala gradnjo odlagališča odpadkov v opekarniški jami, imenovani „Nová jama“.
26. On 26 June 1997, Mesto Pezinok adopted General Regulation No 2/1997 on urban planning, which provided, inter alia, for the location of a landfill site in a trench used for the extraction of earth for use in brick-making, called ‘Nová jama’ (new trench).	27. Ministrstvo za okolje je na podlagi poročila o oceni projekta gradnje odlagališča odpadkov, ki ga je družba Pezinské tehelne as predstavila 16. decembra 1998, opravilo presojo vplivov na okolje v letu 1999. Končno mnenje je izdalo 26. julija 1999.
27. On the basis of an assessment report for a proposed location of a landfill site presented by Pezinské tehelne as on 16 December 1998, the Ministry of the Environment carried out an environmental impact assessment in 1999. It delivered a final opinion on 26 July 1999.	28. Družba Ekologická skládka je 7. avgusta 2002 pri pristojni službi Mesta Pezinok vložila zahtevek za odobritev urbanistične odločbe glede gradnje odlagališča odpadkov na kraju Nová jama.
28. On 7 August 2002, Ekologická skládka presented to the competent service of Mesto Pezinok an application seeking to be granted an urban planning decision on the location of a landfill site on the Nová jama site.	29. Ministrstvo za okolje je 27. marca 2006 na predlog družbe Pezinské tehelne as podaljšalo veljavnost svojega končnega mnenja z dne 26. julija 1999, in sicer do 1. februarja 2008.
29. On 27 March 2006, at the request of Pezinské tehelne as, the Ministry of the Environment extended the validity of its final opinion of 26 July 1999 until 1 February 2008.	30. Z odločbo z dne 30. novembra 2006 v različici, ki izhaja iz odločbe Krajský stavebný úrad v Bratislave (krajevni urbanistični urad v Bratislavi) z dne 7. maja 2007, je Mesto Pezinok na predlog družbe Ekologická skládka odobrilo gradnjo odlagališča odpadkov na mestu Nová jama.
30. By decision of 30 November 2006, in the version resulting from a decision of the Krajský stavebný úrad v Bratislave (regional urban planning service of Bratislava) of 7 May 2007, Mesto Pezinok authorised, at the request of Ekologická skládka, the establishment of a landfill site on the Nová jama site.	31. Na podlagi vloge družbe Ekologická skládka za izdajo integralnega dovoljenja, vložene 25. septembra 2007, je Slovenská inšpekcia životného prostredia, Inšpektorát životného prostredia Bratislava (slovaška inšpekcija za okolje, inšpektorat za okolje Bratislava, v nadaljevanju: inšpektorát) začela integralni postopek na podlagi zakona št. 245/2003, akta o prenosu Direktive 96/61. Skupaj z javnimi službami za varstvo okolja je 17. oktobra 2007 objavila predlog in določila rok 30 dni za predložitev pripomb javnosti in zadevnih državnih služb.
31. Following an application for an integrated permit lodged on 25 September 2007 by Ekologická skládka, the Slovenská inšpekcia životného prostredia, Inšpektorát životného prostredia Bratislava (Slovak environment inspection, environment inspection authority of Bratislava; ‘the inšpektorát’) initiated an integrated procedure on the basis of Law No 245/2003, which was the measure transposing Directive 96/61. On 17 October 2007, together with the public services for environmental protection, it published that application and set out a period of 30 days for the submission of observations by the public and the State services concerned.	32. Tožeče stranke v postopku v glavni stvari so se sklicevale na nepopolnost vloge za izdajo integralnega dovoljenja, ki jo je vložila družba Ekologická skládka, ker to dovoljenje ni vsebovalo priloge, ki je določena v členu 11(2)(g) zakona št. 245/2003, in sicer lokacijske odločbe o gradnji odlagališča, zato je inšpektorát prekinil integralni postopek in 26. novembra 2007 zaprosil za posredovanje te odločbe.
32. Since the appellants in the main proceedings had invoked the incomplete nature of the application for an integrated permit submitted by Ekologická skládka, in so far as it did not contain, as an annex provided for under Paragraph 11(2)(g) of Law No 245/2003, the urban planning decision on the location of the landfill site, the inšpektorát stayed the integrated procedure on 26 November 2007 and requested notification of that decision.	33. Družba Ekologická skládka je 27. decembra 2007 predložila navedeno odločbo in navedla, da zanjo predstavlja poslovno skrivnost. Na podlagi te navedbe inšpektorát zadevnega dokumenta ni dal na voljo tožečim strankam v postopku v glavni stvari.
33. On 27 December 2007, Ekologická skládka forwarded that decision and indicated that it considered it to be commercially confidential. On the basis of that indication, the inšpektorát did not make the document at issue available to the appellants in the main proceedings.	34. Inšpektorát je 22. januarja 2008 družbi Ekologická skládka izdal integralno dovoljenje za gradnjo obrata „Pezinok – odlagališče odpadkov“ in njeno uporabo.
34. On 22 January 2008, the inšpektorát issued Ekologická skládka with an integrated permit for the construction of the installation ‘Pezinok – landfill site’ and for its operation.	35. Tožeče stranke v postopku v glavni stvari so proti tej odločbi vložile pritožbo na inšpekcio, organ za varstvo okolja na drugi stopnji. Ta je odločila, da se lokacijska odločba o gradnji odlagališča za čas od 14. marca do 14. aprila 2008 objavi na uradni oglasni deski.
35. The appellants in the main proceedings lodged an appeal against that decision before the inšpekcia, which is the environmental protection body at	36. Tožeče stranke v postopku v glavni stvari so v upravnem postopku na drugi stopnji navedle med drugim, da je bilo pravo napačno uporabljeno, ker je bil

second instance. That body decided to publish the urban planning decision on the location o f the landfill site in the official list from 14 March to 14 April 2008.	postopek začet brez predložitve lokacijske odločbe o gradnji odlagališča, potem ko je bila ta odločba predložena, pa ni bila objavljena, ker naj bi predstavljala poslovno skrivnost.
36. In the context of the administrative procedure at second instance, the appellants in the main proceedings relied, inter alia, on the error in law which, they submit, consisted in the integrated procedure being initiated without the urban planning decision on the location of the landfill site being available, then, after that decision had been submitted, without publication thereof, on the alleged ground that it constituted confidential commercial information.	37. Inšpekcia je z odločbo z dne 18. avgusta 2008 zavrnila pritožbo kot neutemeljeno.
37. By decision of 18 August 2008, the inšpekcia dismissed the appeal as unfounded.	Sodni postopek
The judicial proceedings	38. Tožeče stranke v postopku v glavni stvari so proti odločbi inšpekcie z dne 18. avgusta 2008 vložile pritožbo na Krajský súd Bratislava (okrajno sodišče v Bratislavi), sodišče prve stopnje v upravnih zadevah. To sodišče je s sodbo z dne 4. decembra 2008 tožbo zavrnilo.
38. The appellants in the main proceedings brought an action against the inšpekcia's decision of 18 August 2008 before the Krajský súd Bratislava (Regional Court of Bratislava), an administrative court of first instance. By judgment of 4 December 2008, that court dismissed the action.	39. Tožeče stranke v postopku v glavni stvari so proti tej odločbi vložile pritožbo na Najvyšší súd Slovenskej republiky (vrhovno sodišče Slovaške republike).
39. The appellants in the main proceedings lodged an appeal against that judgment before the Najvyšší súd Slovenskej republiky (Supreme Court of the Slovak Republic).	40. To sodišče je s sklepom z dne 6. aprila 2009 odložilo izvršitev integralnega dovoljenja.
40. By order of 6 April 2009, that court suspended the operation of the integrated permit.	41. To sodišče je s sodbo z dne 28. maja 2009 spremenilo sodbo Krajský súd Bratislava in razglasilo ničnost odločbe inšpekcie z dne 18. avgusta 2008 in odločbe inšpektoráta z dne 22. januarja 2008, pri čemer je pristojnim organom v bistvu očitalo, da niso spoštovali določb o sodelovanju zainteresirane javnosti v integralnem postopku in da niso zadostno presodili vplivov gradnje odlagališča odpadkov na okolje.
41. By judgment of 28 May 2009, the same court amended the judgment of the Krajský súd Bratislava and annulled the decision of the inšpekcia of 18 August 2008 and the decision of the inšpektorát dated 22 January 2008, in essence finding that the competent authorities had failed to observe the rules governing the participation of the public concerned in the integrated procedure and had not sufficiently assessed the environmental impact of the construction of the landfill site.	42. Družba Ekologická skládka je 25. junija 2009 na Ústavný súd Slovenskej republiky (ustavno sodišče Slovaške republike) vložila ustavno pritožbo proti sklepu Najvyšší súd Slovenskej republiky z dne 6. aprila 2009 in 3. septembra 2009 ustavno pritožbo zoper sodbo tega sodišča z dne 28. maja 2009.
42. Ekologická skládka lodged a constitutional appeal before the Ústavný súd Slovenskej republiky (Constitutional Court of the Slovak Republic) on 25 June 2009 against the order of the Najvyšší súd Slovenskej republiky of 6 April 2009 and, on 3 September 2009, a constitutional appeal against the judgment of that latter court of 28 May 2009.	43. Ústavný súd Slovenskej republiky je s sodbo z dne 27. maja 2010 presodilo, da je Najvyšší súd Slovenskej republiky kršilo temeljno pravico družbe Ekologická skládka do pravnega sredstva, ki je priznana v členu 46(1) ustave, temeljno pravico do lastnine, ki je priznana v členu 20(1) ustave, in njeno pravico do nemotenega uživanja lastnine, ki je priznana v členu 1 dodatnega protokola k Evropski konvenciji o varstvu človekovih pravic in temeljnih svoboščin, ki je bila 4. novembra 1950 podpisana v Rimu.
43. By judgment of 27 May 2010, the Ustavný súd Slovenskej republiky held that the Najvyšší súd Slovenskej republiky had infringed Ekologická skládka's fundamental right to legal protection, recognised in Article 46(1) of the Constitution, its fundamental right to property, recognised in Article 20(1) of the Constitution, and its right to peaceful enjoyment of its property, recognised in Article 1 of the Additional Protocol to the European Convention for the Protection of Human Rights and Fundamental Freedoms, signed in Rome on 4 November 1950.	44. Menilo je zlasti, da Najvyšší súd Slovenskej republiky ni upoštevalo vseh veljavnih načel upravnega postopka in da je prekoračilo pooblastila, ko je preizkušalo zakonitost postopka in odločbo o presoji vplivov na okolje, čeprav tožeče stranke tega niso izpodbijale, in da ni bilo pristojno za odločanje o tej zadevi.
44. It found, inter alia, that the Najvyšší súd Slovenskej republiky had not taken account of all the applicable principles governing the administrative procedure and that it had exceeded its powers by examining the lawfulness of the procedure and of the environmental impact assessment decision, even though the appellants had not disputed them and it lacked jurisdiction to rule on them.	45. Ústavný súd Slovenskej republiky je zato s sodbo razveljavilo sklep in izpodbijano sodbo ter zadevo vrnilo Najvyšší súd Slovenskej republiky v ponovno odločanje.
45. By its judgment, the Ústavný súd Slovenskej republiky consequently annulled the contested order and set aside the judgment, referring the case back to the Najvyšší súd Slovenskej republiky so that it could give a fresh ruling.	46. Najvyšší súd Slovenskej republiky je upoštevalo, da je več udeležencev v postopku pred njim navedlo, da ga zavezuje sodba Ústavný súd Slovenskej republiky z dne 27. maja 2010. Vendar je poudarilo, da še vedno dvomi o skladnosti izpodbijanih odločb s pravom Unije.
46. The Najvyšší súd Slovenskej republiky observes that several participants in the proceedings pending before it claim that it is bound by the judgment of the Ústavný súd Slovenskej republiky of 27 May 2010. None the less, it notes that it still has doubts as to the compatibility of the contested decisions with European Union law.	47. V teh okoliščinah je Najvyšší súd Slovenskej republiky prekinilo odločanje in Sodišču v predhodno odločanje predložilo ta vprašanja:
47. In those circumstances, the Najvyšší súd Slovenskej republiky decided to stay the proceedings and to refer the following questions to the Court for a preliminary ruling:	„1. Ali pravo [Unije] (zlasti člen 267 PDEU) vrhovnemu sodišču neke države članice nalaga ali dopušča, da [Sodišču] po uradni dolžnosti predloži predlog za sprejetje predhodne odločbe, tudi če je postopek v glavni stvari tak, da je ustavno sodišče razveljavilo sodbo vrhovnega sodišča, ki je temeljila predvsem na uporabi [prava Unije] glede varstva okolja, in je temu sodišču naložilo, da se mora držati pravne presoje tega ustavnega sodišča, ki temelji na kršitvi procesnih in materialnih ustavnih pravic ene od strank sodnega postopka, nikakor pa ne upošteva vidikov [prava Unije] v tem sporu, ali drugače povedano, tudi če ustavno sodišče kot sodišče zadnje stopnje v obravnavanem primeru ne sklene, da je treba vložiti predlog za sprejetje predhodne odločbe [pri Sodišču], in je v postopku v glavni stvari začasno izključilo uresničevanje pravice do primernega okolja in do njegovega varstva?
'1. Does [European Union] law (specifically Article 267 TFEU) require or enable the supreme court of a Member State, of its own motion, to refer a question to the [Court of Justice] for a preliminary ruling even at a stage of proceedings	2. Ali je mogoče uresničiti glavni cilj celovitega preprečevanja – kot je razviden zlasti iz uvodnih izjav 8, 9 in 23 ter členov 1 in 15 Direktive Sveta [96/61] ter [iz prava Unije] glede okolja na splošno – in sicer preprečevanje in

where the constitutional court has annulled a judgment of the supreme court based in particular on the application of the [European Union legal] framework on environmental protection and imposed the obligation to abide by the constitutional court's legal opinions based on breaches of the procedural and substantive constitutional rights of a person involved in judicial proceedings, irrespective of the [European Union law] dimension of the case concerned, that is, where in those proceedings the constitutional court, as the court of last instance, has not concluded that there is a need to refer a question to the [Court of Justice] for a preliminary ruling and has provisionally excluded the application of the right to an acceptable environment and the protection thereof in the case concerned?	nadzorovanje onesnaževanja, tudi s sodelovanjem javnosti, da bi se dosegla visoka stopnja varstva okolja kot celote, v postopku, v katerem zainteresirani javnosti ob začetku postopka za celovito preprečevanje ni zagotovljen dostop do celotne upoštevne dokumentacije (člen 6 v povezavi s členom 15 Direktive [96/61]) predvsem do odločbe o lokaciji odlagališča odpadkov, in subjekt pozneje predloži manjkajoči dokument v postopku na prvi stopnji pod pogojem, da se ne razkrije drugim strankam v postopku, ker gre za gradivo, ki je varovano kot poslovna skrivnost? Drugače povedano: ali je mogoče utemeljeno šteti, da odločba o lokaciji objekta (zlasti njena obrazložitev) bistveno vpliva na predložitev pripomb, stališč in drugih opozoril?
2. Is it possible to fulfil the basic objective of integrated prevention as defined, in particular, in recitals 8, 9 and 23 in the preamble to and Articles 1 and 15 of Directive [96/61], and, in general, in the [European Union legal] framework on the environment, that is, pollution prevention and control involving the public in order to achieve a high level of environmental protection as a whole, by means of a procedure where, on commencement of an integrated prevention procedure, the public concerned is not guaranteed access to all relevant documents (Article 6 in conjunction with Article 15 of Directive [96/61]), especially the decision on the location of a structure (landfill site), and where, subsequently, at first instance, the missing document is submitted by the applicant on condition that it is not disclosed to other parties to the proceedings in view of the fact that it constitutes trade secrets: can it reasonably be assumed that the location decision (in particular its statement of reasons) will significantly affect the submission of suggestions, observations or the other comments?	3. Ali je uresničen namen Direktive [85/337], zlasti z vidika [prava Unije] glede okolja, natančneje glede na pogoj iz člena 2 – v skladu s katerim je treba o nekaterih projektih pred izdajo dovoljenja presoditi z vidika vplivov na okolje – če je mnenje, ki ga je ministrstvo za okolje prvotno izdalo leta 1999 in s katerim se je v preteklosti končal postopek presoje vplivov na okolje (PVO), po poteku več let podaljšano samo z odločbo, ne da bi bil pred tem izveden nov postopek PVO? Drugače povedano: ali je mogoče šteti, da ima odločba, sprejeta v skladu z Direktivo [85/337], potem ko je izdana, neomejeno veljavnost?
3. Are the objectives of [Directive 85/337] met, especially in terms of the [European Union legal] framework on the environment, specifically the condition referred to in Article 2 that, before consent is given, certain projects will be assessed in the light of their environmental impact, if the original position of the Ministerstvo životného prostredia (Ministry of the Environment) issued in 1999 and terminating a past environmental impact assessment (EIA) procedure is prolonged several years later by a simple decision without a repeat EIA procedure; in other words, can it be said that a decision under [Directive 85/337], once issued, is valid indefinitely?	4. Ali splošni pogoj iz Direktive [96/61] (zlasti iz njene preambule ter členov 1 in 15a) – v skladu s katerim vsaka država članica zagotavlja preprečevanje in nadzorovanje onesnaževanja tudi tako, da zainteresirani javnosti omogoča pravna sredstva v poštenem, nepristranskem in pravočasnem upravnem ali sodnem postopku – v povezavi z določbo člena 10a Direktive [85/337] in s členoma 6 in 9(2) in (4) Aarhuške konvencije vključuje tudi možnost navedene javnosti, da predlaga sprejetje začasnega upravnega ali sodnega ukrepa v skladu z nacionalnim pravom (na primer sklepa o odlogu izvrševanja celovite odločbe), ki dovoljuje, da se začasno – in sicer do sprejetja končne odločbe v zadevi – prekine gradnja načrtovanega objekta?
4. Does the requirement arising generally under Directive [96/61] (in particular the preamble and Articles 1 and 15a) for Member States to engage in the prevention and control of pollution by providing the public with fair, equitable and timely administrative or judicial proceedings in conjunction with Article 10a of Directive [85/337] and Articles 6 and 9(2) and (4) of the Aarhus Convention apply to the possibility for the public to seek the imposition of an administrative or judicial measure which is preliminary in nature in accordance with national law (for example, an order for the judicial suspension of enforcement of an integrated permit) and allows for the temporary suspension, until a final decision in the case, of the construction of an installation for which a permit has been requested?	5. Ali se lahko s sodno odločbo, s katero se zadosti pogoju iz Direktive [96/61] ali Direktive [85/337] ali pa iz člena 9(2) in (4) Aarhuške konvencije – torej z uresničevanjem tam določene pravice javnosti do nepristranskega sodnega varstva v smislu člena 191(1) in (2) [PDEU] v zvezi s politiko Evropske unije glede varstva okolja – nezakonito krši lastninska pravica, zagotovljena med drugim s členom 1 Dodatnega protokola k Evropski konvenciji o varstvu človekovih pravic in temeljnih svoboščin, ki jo ima upravljavec na obratu, na primer zaradi dejstva, da je bila med sodnim postopkom razglašena ničnost celovitega dovoljenja za novi objekt vlagatelja?“
5. Is it possible, by means of a judicial decision meeting the requirements of Directive [96/61] or Directive [85/337] or Article 9(2) and (4) of the Aarhus Convention, in the application of the public right contained therein to fair judicial protection within the meaning of Article 191(1) and (2) [TFEU], concerning European Union policy on the environment, to interfere unlawfully with an operator's right of property in an installation as guaranteed, for example, in Article 1 of the Additional Protocol to the Convention for the Protection of Human Rights and Fundamental Freedoms, for example by revoking an applicant's valid integrated permit for a new installation in judicial proceedings?'	Vprašanja za predhodno odločanje
Consideration of the questions referred	Dopustnost
Admissibility	48. Družba Ekologická skládka in slovaška vlada iz različnih razlogov izpodbijata dopustnost predloga za sprejetje predhodne odločbe oziroma nekaterih postavljenih vprašanj.
48. The inšpekcia, Ekologická skládka and the Slovak Government challenge, on a variety of grounds, the admissibility of the request for a preliminary ruling or of some of the questions referred.	49. Prvič, inšpekcia in družba Ekologická skládka menita, da so vsa postavljena vprašanja nedopustna, ker se nanašajo na položaje, ki jih v celoti ureja notranja zakonodaja, zlasti akti, s katerimi sta preneseni direktivi 85/337 in 96/61. Družba Ekologická skládka iz tega sklepa, da ti direktivi nimata neposrednega učinka, medtem ko inšpekcia meni, da sta zadosti jasni, zaradi česar je vprašanje za predhodno odločanje nepotrebno. Inšpekcia navaja, da bi morala biti vprašanja za predhodno odločanje postavljena med prvo fazo postopka, ki je potekal pred Najvyšší súd Slovenskej republiky. Družba Ekologická skládka ocenjuje, da so ta vprašanja odvečna, ker je Najvyšší súd Slovenskej republiky zdaj vezano na pravno stališče Ústavný súd Slovenskej republiky in da nobena od strank v postopku v glavni stvari ni zahtevala, da bi Sodišče odločalo o teh vprašanjih.
49. In the first place, in the view of the inšpekcia and Ekologická skládka, all of the questions referred are inadmissible because they concern situations which are entirely governed by internal rules, in particular by the acts transposing Directives 85/337 and 96/61. Ekologická skládka infers from this that those directives have no direct effect, while the inšpekcia considers that they are sufficiently clear to render the reference for a preliminary ruling unnecessary. The inšpekcia also argues that the questions referred ought to have been raised	50. Drugič, družba Ekologická skládka poudarja, da sta zaradi razlikovanja v notranjem pravu med integralnim postopkom, lokacijskim postopkom in presojo vplivov na okolje drugo in tretje vprašanje brez pomena za izid postopka v glavni stvari. Po mnenju inšpekcie to razlikovanje upravičuje nedopustnost tretjega, četrtega in petega vprašanja. To razlikovanje naj bi namreč pomenilo, da napaka v lokacijski odločbi ali pri presoji vplivov na okolje ne vpliva na zakonitost integralnega dovoljenja.

during the first stage of the proceedings brought before the Najvyšší súd Slovenskej republiky. Likewise, Ekologická skládka takes the view that those questions are superfluous in so far as the Najvyšší súd Slovenskej republiky is now bound by the position in law taken by the Ústavný súd Slovenskej republiky and that none of the parties in the main proceedings requested that the Court of Justice be seised of those questions.	
50. In the second place, Ekologická skládka claims that the separation established by national law between the integrated procedure, the urban planning procedure and the environmental impact assessment procedure renders the second and third questions irrelevant to the outcome of the main proceedings. In the view of the inšpekcia, that separation justifies the contention that the third, fourth and fifth questions are inadmissible. That is because it implies that a defect arising from the urban planning decision or the environmental impact assessment has no effect on the lawfulness of the integrated permit.	51. Tretjič, družba Ekologická skládka in slovaška vlada menita, da je četrto vprašanje hipotetično. Po eni strani so začasni ukrepi, ki jih je odredilo Najvyšší súd Slovenskej republiky s sklepom z dne 6. aprila 2009 brez učinka. Po drugi strani bi bilo to vprašanje brez pomena za postopek, ki poteka pred predložitvenim sodiščem, saj se ta postopek ne nanaša na izrek novih začasnih ukrepov, pač pa na veljavnost izpodbijanih upravnih odločb.
51. In the third place, Ekologická skládka and the Slovak Government take the view that the fourth question is hypothetical. First, the interim measures ordered by the Najvyšší súd Slovenskej republiky in its order of 6 April 2009 are, they contend, now wholly deprived of effectiveness. Second, that question is irrelevant to the proceedings pending before the referring court since those proceedings concern the validity of the contested administrative decisions and not the delivery of new interim measures.	52. Četrtič in nazadnje, družba Ekologická skládka navaja, da je tudi peto vprašanje hipotetično, ker se nanaša na odločbo, s katero bo Najvyšší súd Slovenskej republiky končalo postopek v glavni stvari. Poleg tega je vprašanje tudi nedopustno, saj se nanaša na razlago nacionalnega ustavnega prava.
52. In the fourth and last place, Ekologická skládka claims that the fifth question is also hypothetical as it concerns the decision that the Najvyšší súd Slovenskej republiky will be called upon to make at the conclusion of the main proceedings. Moreover, that question is also inadmissible because it concerns the interpretation of national constitutional law.	53. V zvezi s tem je treba poudariti, da v skladu z ustaljeno sodno prakso le nacionalno sodišče, pred katerim poteka sodni postopek in ki mora prevzeti odgovornost za sodbo, ki jo izda, glede na posebnosti zadeve presodi nujnost sprejetja predhodne odločbe, da bi lahko izdalo sodbo, in upoštevnost vprašanj, ki jih postavi Sodišču. Kadar se postavljena vprašanja nanašajo na razlago prava Unije, mora Sodišče načeloma odločiti (sodbi z dne 10. marca 2009 v zadevi Hartlauer, C 169/07, ZOdl., str. I 1721, točka 24, in z dne 19. julija 2012 v zadevi Garkalns, C 470/11, še neobjavljena v ZOdl., točka 17).
53. In that regard, it must be borne in mind that, according to settled case-law, it is solely for the national court before which the dispute has been brought, and which must assume responsibility for the subsequent judicial decision, to determine, in the light of the particular circumstances of the case, both the need for a preliminary ruling in order to enable it to deliver judgment and the relevance of the questions which it submits to the Court. Consequently, where the questions submitted concern the interpretation of European Union law, the Court is in principle required to give a ruling (Case C 169/07 Hartlauer [2009] ECR I 1721, paragraph 24, and Case C 470/11 Garkalns [2012] ECR I 0000, paragraph 17).	54. Iz tega je razvidno, da se predpostavlja ustreznost vprašanj o pravu Unije. Sodišče lahko odločanje o vprašanju za predhodno odločanje nacionalnega sodišča zavrne samo, če je jasno, da zahtevana razlaga prava Unije nima nobene zveze z dejanskim stanjem ali predmetom spora v postopku o glavni stvari, če je problem hipotetičen ali če Sodišče nima na voljo pravnih in dejanskih elementov, ki so potrebni, da bi lahko na zastavljena vprašanja koristno odgovorilo (glej sodbi z dne 1. junija 2010 v združenih zadevah Blanco Pérez in Chao Gómez, C 570/07 in C 571/07, ZOdl., str. I 4629, točka 36, in z dne 5. julija 2012 v zadevi Geistbeck, C 509/10, še neobjavljena v ZOdl., točka 48).
54. It follows that questions relating to European Union law 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 European Union law that is sought bears no relation to the actual facts of the main action or its purpose, 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 (Joined Cases C-570/07 and C-571/07 Blanco Pérez and Chao Gómez [2010] ECR I-4629, paragraph 36, and Case C-509/10 Geistbeck [2012] ECR I-0000, paragraph 48).	55. Trditev o popolnosti nacionalnega prava ne dopušča ugotovitve, da bi bila razlaga pravil prava Unije, ki jih navaja predložitveno sodišče, očitno brez povezave s predmetom spora v glavni stvari, še toliko bolj, ker ni izpodbijano, da so nacionalne določbe, ki se uporabljajo, deloma prenesene iz aktov Unije. Zato ta trditev ne zadošča za zavrnitev domneve upoštevnosti iz prejšnje točke.
55. However, the argument relating to the completeness of national law does not enable it to be established that the interpretation of the rules of European Union law cited by the referring court clearly bear no relation to the dispute in the main proceedings, particularly as it is not disputed that the applicable national provisions are in part measures transposing European Union acts. Therefore, that argument does not suffice to reverse the presumption of relevance referred to in the previous paragraph.	56. Ugotoviti je treba, da zatrjevani neobstoj neposrednega učinka zadevnih direktiv ne spremeni ničesar v zvezi s tem, da je Sodišče na podlagi člena 267 PDEU pristojno, da v postopku za sprejetje predhodne odločbe odloča o razlagi aktov, ki so jih sprejele institucije Unije, ne glede na to, ali se neposredno uporabljajo (sodbe z dne 10. julija 1997 v zadevi Maso in drugi, C 373/95, ZOdl., I 4051, točka 28; z dne 16. julija 2009 v zadevi Futura Immobiliare in drugi, C 254/08, ZOdl., I 6995, točka 34, in z dne 27. novembra 2012 v zadevi Pringle, C 370/12, še neobjavljena v ZOdl., točka 89). Poleg tega je treba opozoriti, da člen 267 PDEU nacionalnemu sodišču vedno dovoljuje, da Sodišču predloži vprašanja glede razlage, če presodi, da je to primerno (glej v tem smislu sodbo z dne 26. maja 2011 v združenih zadevah Stichting Natuur en Milieu in drugi, od C 165/09 do C 167/09, še neobjavljena v ZOdl., točka 52 in navedena sodna praksa).
56. It must be stated that the alleged absence of direct effect of the directives at issue does not alter that analysis because the Court has jurisdiction, under Article 267 TFEU, to give preliminary rulings concerning the interpretation of acts of the institutions of the European Union, irrespective of whether they are directly applicable (Case C 373/95 Maso and Others [1997] ECR I-4051, paragraph 28; Case C 254/08 Futura Immobiliare and Others [2009] ECR I-6995, paragraph 34; and Case C 370/12 Pringle [2012] ECR I-0000, paragraph 89). Moreover, as regards the assumed irrelevance of the request for a preliminary ruling by reason of the clarity of the applicable rules, it must be recalled that Article 267 TFEU always allows a national court, if it considers it desirable, to refer questions of interpretation to the Court (see, to that effect, Joined Cases C-165/09 to C-167/09 Stichting Natuur en Milieu and Others [2011] ECR I 0000, paragraph 52 and the case-law cited).	57. Druge trditve, ki jih navajata inšpekcia in družba Ekologická skládka, da bi dokazali nedopustnost vseh vprašanj za predhodno odločanje, se nanašajo na predmet prvega vprašanja in jih bo Sodišče obravnavalo v okviru presoje tega vprašanja.
57. The other arguments put forward by the inšpekcia and Ekologická skládka to demonstrate the inadmissibility of the request for a preliminary ruling in its entirety concern the purpose of the first question and will for that reason be	58. Glede elementov, ki se nanašajo na ločevanje različnih postopkov v nacionalnem pravu, je treba poudariti, da predložitveno sodišče sprejme razlago posledic, ki jih je treba izluščiti iz tega ločevanja glede na nacionalno pravo, ki

addressed by the Court when it examines that question.	je zelo različno od tistega, ki ga zagovarjata inšpekcija in družba Ekologická skládka. V okviru postopka iz člena 267 PDEU so namreč naloge Sodišča in naloge predložitvenega sodišča jasno ločene in izključno zadnjemu pripada naloga razlage nacionalne zakonodaje (sodbi z dne 17. junija 1999 v zadevi Piaggio, C 295/97, Recueil, str. I 3735, točka 29, in z dne 17. julija 2008 v zadevi Corporación Dermoestética, C 500/06, ZOdl., str. I 5785, točka 21). Zato ti elementi ne zadoščajo za dokaz, da postavljena vprašanja očitno niso povezana z dejanskim stanjem ali predmetom spora.
58. As regards the factors arising from the separation of the various proceedings under national law, it is important to note that the referring court adopts a view of the consequences which must be drawn from that separation under national law which is very different from that supported by the inšpekcia and Ekologická skládka. However, in the procedure laid down by Article 267 TFEU, the functions of the Court of Justice and those of the referring court are clearly distinct, and it falls exclusively to the latter to interpret national legislation (Case C 295/97 Piaggio [1999] ECR I 3735, paragraph 29, and Case C-500/06 Corporación Dermoestética [2008] ECR I 5785, paragraph 21). Consequently, those factors are insufficient to show that the questions raised are manifestly unconnected with the facts or subject-matter of the dispute.	59. Glede dopustnosti četrtega vprašanja je iz predložitvene odločbe razvidno, da je Najvyšší súd Slovenskej republiky sprejelo nove začasne ukrepe za prenehanje učinkovanja odločb, ki so bile izdane v postopku v glavni stvari. Še več, družba Ekologická skládka je pojasnila, da je v pisnih stališčih navedla, da bi bilo koristno vložiti pritožbo proti tem ukrepom. V takšnih okoliščinah se ne zdi, da bi bilo mogoče četrto vprašanje šteti za hipotetično.
59. With regard to the admissibility of the fourth question, it is apparent from the decision making the reference that the Najvyšší súd Slovenskej republiky adopted new interim measures designed to suspend the effect of the decisions at issue in the main proceedings. Moreover, Ekologická skládka states in its written observations that it considered it useful to bring an action challenging those measures. In those circumstances, it does not appear that the fourth question can be regarded as hypothetical.	60. Nazadnje, glede dopustnosti petega vprašanja je jasno, da je Ústavný súd Slovenskej republiky presodilo, da je Najvyšší súd Slovenskej republiky s sodbo z dne 28. maja 2009 kršilo lastninsko pravico družbe Ekologická skládka, s katero je ugotovilo, da je bilo integralno dovoljenje izdano pod pogoji, ki niso združljivi s pravom Unije. Ker predložitveno sodišče dvomi glede združljivosti izpodbijanih odločb v postopku v glavni stvari s pravom Unije, peto vprašanje ne more biti zgolj hipotetično. Poleg tega iz besedila tega vprašanja izhaja, da se ne nanaša na razlago nacionalnega ustavnega prava.
60. Finally, so far as the admissibility of the fifth question is concerned, it is not in dispute that the Ústavný súd Slovenskej republiky held that the Najvyšší súd Slovenskej republiky had infringed Ekologická skládka's right to property by its judgment of 28 May 2009, which found that the integrated permit had been granted under circumstances incompatible with European Union law. In so far as the referring court continues to have doubts as to the compatibility with European law of the decisions contested in the case in the main proceedings, the fifth question is not purely hypothetical. Moreover, it is apparent from the wording of that question that it does not concern the interpretation of national constitutional law.	61. Zato je treba vprašanja, ki jih je postavilo predložitveno sodišče, šteti za dopustna.
61. The questions submitted by the referring court must accordingly be declared admissible.	Prvo vprašanje
The first question	62. S prvim vprašanjem želi predložitveno sodišče v bistvu izvedeti, ali je treba člen 267 PDEU razlagati tako, da nacionalno sodišče lahko po uradni dolžnosti Sodišču predloži vprašanje za predhodno odločanje, tudi če odloča ponovno, potem ko je ustavno sodišče zadevne države članice razveljavilo njeno prvo odločbo, in če pravilo nacionalnega prava nalaga, da je treba spor razrešiti v skladu s pravnim stališčem tega sodišča. Prav tako sprašuje, ali je treba člen 267 PDEU razlagati tako, da mora to nacionalno sodišče zadevo predložiti Sodišču, tudi če so njegove odločbe lahko predmet ustavne presoje tožbe, ki je omejena na preizkus morebitne kršitve pravic in svoboščin, ki so zagotovljene z nacionalno ustavo ali mednarodnim sporazumom.
62. By its first question, the referring court asks, in essence, whether Article 267 TFEU must be interpreted as meaning that a national court may, of its own motion, refer a question to the Court of Justice for a preliminary ruling even though it rules following a referral back after the constitutional court of the Member State concerned has annulled its first decision and although a national rule obliges it to resolve the dispute by following the legal opinion of that latter court. It also asks whether Article 267 TFEU must be interpreted as obliging that same national court to refer a case to the Court of Justice although its decisions may form the subject, before a constitutional court, of an action limited to examining whether there has been an infringement of the rights and freedoms guaranteed by the national Constitution or by an international agreement.	63. Najprej je treba upoštevati, da želi Najvyšší súd Slovenskej republiky s prvim vprašanjem izvedeti tudi, ali mu pravo Unije dovoljuje odstop od uporabe nacionalne določbe, ki mu prepoveduje uveljavljanje tožbenega razloga, ki se nanaša na kršitev te pravice, ki je stranke v postopku v glavni stvari niso uveljavljale. Vendar je iz odločbe predložitvenega sodišča razvidno, da se to vprašanje nanaša samo na Direktivo 85/337 in da se je zato treba izreči o tem vprašanju le, če se glede na odgovor na tretje vprašanje zdi, da se ta direktiva uporablja za postopek v glavni stvari.
63. Firstly, it must be noted that, by its first question, the Najvyšší súd Slovenskej republiky also wishes to know whether European Union law allows it to disapply a national rule which prohibits it from raising a ground alleging infringement of that law which was not relied on by the parties to the main proceedings. However, it is apparent from the decision making the reference that that question concerns only Directive 85/337 and that it is consequently necessary to rule on that matter only if it appears, in the light of the response given to the third question, that that directive is applicable in the dispute in the main proceedings.	64. Glede drugih vidikov prvega vprašanja za predhodno odločanje iz ustaljene sodne prakse izhaja, da člen 267 PDEU nacionalnim sodiščem daje najširšo diskrecijsko pravico glede predložitve vprašanja Sodišču, če ugotovijo, da se v zadevi, o kateri odločajo, pojavijo vprašanja glede razlage ali presoje veljavnosti določb prava Unije, ki so nujna za rešitev spora, o katerem odločajo (sodbi z dne 27. junija 1991 v zadevi Mecanarte, C 348/89, Recueil, str. I 3277, točka 44, in z dne 5. oktobra 2010 v zadevi Elčinov, C 173/09, ZOdl., str. I 8889, točka 26).
64. As regards the other aspects of the first question referred, it is settled case-law that Article 267 TFEU gives national courts the widest discretion in referring matters to the Court if they consider that a case pending before them raises questions involving interpretation of provisions of European Union law, or consideration of their validity, which are necessary for the resolution of the case (Case C 348/89 Mecanarte [1991] ECR I 3277, paragraph 44, and Case C-173/09 Elchinov [2010] ECR I 8889, paragraph 26).	65. Člen 267 PDEU namreč daje nacionalnim sodiščem možnost in glede na okoliščine določa obveznost vložitve predloga za predhodno odločanje, če bodisi po uradni dolžnosti bodisi na predlog strank ugotovijo, da temelj spora zajema vprašanje, navedeno v prvem odstavku tega člena (sodbi z dne 10. julija 1997 v zadevi Palmisani, C 261/95, Recueil, str. I 4025, točka 20, in z dne 21. julija 2011 v zadevi Kelly, C 104/10, še neobjavljena v ZOdl., točka 61). Dejstvo, da stranke v postopku v glavni stvari pred predložitvenim sodiščem niso navedle vprašanja glede prava Unije, ne nasprotuje temu, da se zadeva predloži Sodišču (sodbi z dne 16. junija 1981 v zadevi Salonia, 126/80, Recueil,

	str. 1563, točka 7, in z dne 8. marca 2012 v zadevi Huet, C-251/11, še neobjavljena v ZOdl., točka 23).
65. Article 267 TFEU therefore confers on national courts the power and, in certain circumstances, an obligation to make a reference to the Court once the national court forms the view, either of its own motion or at the request of the parties, that the substance of the dispute involves a question which falls within the scope of the first paragraph of that article (Case C-261/95 Palmisani [1997] ECR I-4025, paragraph 20, and Case C 104/10 Kelly [2011] ECR I-0000, paragraph 61). That is the reason why the fact that the parties to the main proceedings did not raise a point of European Union law before the referring court does not preclude the latter from bringing the matter before the Court of Justice (Case 126/80 Salonia [1981] ECR 1563, paragraph 7, and Case C-251/11 Huet [2012] ECR I 0000, paragraph 23).	66. Predlog za sprejetje predhodne odločbe namreč temelji na izmenjavi mnenj med sodiščema, katere začetek je v celoti odvisen od presoje nacionalnega sodišča glede pomembnosti in nujnosti tega predloga (sodbi z dne 16. decembra 2008 v zadevi Cartesio, C 210/06, ZOdl., str. I 9641, točka 91, in z dne 9. novembra 2010 v zadevi VB Pénzügyi Lízing, C 137/08, ZOdl., str. I 10847, točka 29).
66. A reference for a preliminary ruling is based on a dialogue between one court and another, the initiation of which depends entirely on the national court's assessment as to whether that reference is appropriate and necessary (Case C-210/06 Cartesio [2008] ECR I-9641, paragraph 91, and Case C-137/08 VB Pénzügyi Lízing [2010] ECR I 10847, paragraph 29).	67. Poleg tega obstoj nacionalne procesne določbe ne more vzbuditi pomislekov o možnosti, ki jo imajo nacionalna sodišča, da Sodišču predložijo predlog za sprejetje predhodne odločbe, kadar kot v postopku v glavni stvari dvomijo glede razlage prava Unije (zgoraj navedena sodba Elčinov, točka 25, in sodba z dne 20. oktobra 2011 v zadevi Interedil, C 396/09, še neobjavljena v ZOdl., točka 35).
67. Moreover, the existence of a national procedural rule cannot call into question the discretion of national courts to make a reference to the Court of Justice for a preliminary ruling where they have doubts, as in the case in the main proceedings, as to the interpretation of European Union law (Elchinov , paragraph 25, and Case C 396/09 Interedil [2011] ECR I 0000, paragraph 35).	68. Pravilo nacionalnega prava, v skladu s katerim presoja hierarhično višjega sodišča zavezuje drugo nacionalno sodišče, ne more temu odvzeti možnosti, da Sodišču postavi vprašanje za predhodno odločanje o razlagi prava Unije glede takšne pravne presoje. Biti mora namreč svobodno, da Sodišču predloži vprašanja, o katerih dvomi, zlasti če meni, da bi lahko na podlagi pravne presoje, opravljene na višji stopnji, izdalo sodbo, ki bi bila v nasprotju s pravom Unije (sodba z dne 9. marca 2010 v zadevi ERG in drugi, C 378/08, ZOdl., str. I 1919, točka 32, in zgoraj navedena sodba Elčinov, točka 27).
68. A rule of national law, pursuant to which legal rulings of a higher court bind another national court, cannot take away from the latter court the discretion to refer to the Court of Justice questions of interpretation of the points of European Union law concerned by such legal rulings. That court must be free, if it considers th at a higher court's legal ruling could lead it to deliver a judgment contrary to European Union law, to refer to the Court of Justice questions which concern it (Case C 378/08 ERG and Others [2010] ECR I 1919, paragraph 32; and Elchinov , paragraph 27).	69. Iz tega izhaja, da je nacionalno sodišče, potem ko uporabi možnost, ki mu jo daje člen 267 PDEU, za rešitev spora o glavni stvari vezano na razlago zadevnih določb, ki jo je podalo Sodišče, in mora glede na okoliščine primera odstopiti od presoje hierarhično višjega sodišča, če glede na to razlago meni, da ta presoja ni skladna s pravom Unije (zgoraj navedena sodba Elčinov, točka 30).
69. At this stage, it must be noted that the national court, having exercised the discretion conferred on it by Article 267 TFEU, is bound, for the purposes of the decision to be given in the main proceedings, by the interpretation of the provisions at issue given by the Court of Justice and must, if necessary, disregard the rulings of the higher court if it considers, in the light of that interpretation, that they are not consistent with European Union law (Elchinov , paragraph 30).	70. V predhodnih točkah navedena načela so enako zavezujoča za predložitveno sodišče glede pravne presoje, ki jo je ustavno sodišče izrazilo v postopku v glavni stvari, kadar iz ustaljene sodne prakse izhaja, da ni mogoče dopustiti, da bi predpisi nacionalnega prava, čeprav so ustavnopravni, posegali v enotnost in učinkovitost prava Unije (sodbi z dne 17. decembra 1970 v zadevi Internationale Handelsgesellschaft, 11/70, Recueil, str. 1125, točka 3, in z dne 8. septembra 2010 v zadevi Winner Wetten, C 409/06, ZOdl., str. I 8015, točka 61). Sodišče je poleg tega presodilo, da se ta načela uporabljajo v razmerjih med ustavnim sodiščem in vsemi drugimi nacionalnimi sodišči (sodba z dne 22. junija 2010 v združenih zadevah Melki in Abdeli, C 188/10 in C 189/10, ZOdl., str. I 5667, točke od 41 do 45).
70. The principles set out in the previous paragraphs apply in the same way to the referring court with regard to the legal position expressed, in the present case in the main proceedings, by the constitutional court of the Member State concerned in so far as it follows from well-established case-law that rules of national law, even of a constitutional order, cannot be allowed to undermine the unity and effectiveness of European Union law (Case 11/70 Internationale Handelsgesellschaft [1970] ECR 1125, paragraph 3, and Case C-409/06 Winner Wetten [2010] ECR I-8015, paragraph 61). Moreover, the Court of Justice has already established that those principles apply to relations between a constitutional court and all other national courts (Joined Cases C-188/10 and C-189/10 Melki and Abdeli [2010] ECR I 5667, paragraphs 41 to 45).	71. Nacionalno pravilo, ki Najvyšší súd Slovenskej republiky zavezuje, da sledi pravni presoji Ústavný súd Slovenskej republiky, ne more preprečiti predložitvenemu sodišču, da ne bi, kadar koli se mu med postopkom zdi primerno, postavilo vprašanja za predhodno odločanje in odklonilo presoje stališč Ústavný súd Slovenskej republiky, ki so v nasprotju s pravom Unije.
71. The national rule which obliges the Najvyšší súd Slovenskej republiky to follow the legal position of the Ústavný súd Slovenskej republiky cannot therefore prevent the referring court from submitting a request for a preliminary ruling to the Court of Justice at any point in the proceedings which it judges appropriate, and to set aside, if necessary, the assessments made by the Ústavný súd Slovenskej republiky which might prove to be contrary to European Union law.	72. Nazadnje, Najvyšší súd Slovenskej republiky je kot vrhovno sodišče dolžno Sodišču predložiti vprašanje za predhodno odločanje, če ugotovi, da se bistvo spora nanaša na vprašanje, ki ga je treba razrešiti ob upoštevanju prvega odstavka člena 267 PDEU. Možnost vložiti tožbe pri ustavnem sodišču zadevne države članice proti odločbam nacionalnega sodišča, ki so omejene na preizkus morebitnih kršitev pravic in svoboščin, ki so zagotovljene z nacionalno ustavo ali mednarodnim sporazumom, ne more pomeniti, da se to nacionalno sodišče šteje za sodišče, zoper odločitev katerega po nacionalnem pravu ni pravnega sredstva v smislu člena 267, tretji odstavek, PDEU.
72. Finally, as a supreme court, the Najvyšší súd Slovenskej republiky is even required to submit a request for a preliminary ruling to the Court of Justice when it finds that the substance of the dispute concerns a question to be resolved which comes within the scope of the first paragraph of Article 267 TFEU. The possibility of bringing, before the constitutional court of the Member State concerned, an action against the decisions of a national court, limited to an examination of a potential infringement of the rights and freedoms guaranteed by the national constitution or by an international agreement, cannot allow the view to be taken that that national court cannot be classified as a court against whose decisions there is no judicial remedy under national law within the meaning of the third paragraph of Article 267 TFEU.	73. Glede na zgoraj navedeno je treba na prvo vprašanje odgovoriti, da je treba člen 267 PDEU razlagati tako, da mora nacionalno sodišče, kakršno je predložitveno sodišče, Sodišču po uradni dolžnosti predložiti predlog za sprejetje predhodne odločbe, tudi če samo ponovno odloča o zadevi po razveljavitvi svoje prvestopenjske odločbe s strani ustavnega sodišča zadevne države članice in tudi, če mu pravilo nacionalnega prava nalaga, da mora pri razrešitvi spora slediti pravni presoji hierarhično višjega sodišča.
73. In the light of the foregoing, the answer to the first question is that Article 267 TFEU must be interpreted as meaning that a national court, such as the	Drugo vprašanje

referring court, is obliged to make, of its own motion, a request for a preliminary ruling to the Court of Justice even though it is ruling on a referral back to it after its first decision was set aside by the constitutional court of the Member State concerned and even though a national rule obliges it to resolve the dispute by following the legal opinion of that latter court.	
The second question	74. Z drugim vprašanjem predložitveno sodišče v bistvu sprašuje, ali je treba Direktivo 96/61 razlagati tako, da zahteva, da je javnost vključena od začetka postopka za izdajo dovoljenja za gradnjo odlagališča, do sprejetja lokacijske odločbe o gradnji tega obrata. Prav tako sprašuje, ali je zavrnitev razkritja te odločbe lahko utemeljena s sklicevanjem na poslovno skrivnost, ki varuje podatke, ki so v njej vsebovani, oziroma če ni tako, ali se ta pomanjkljivost lahko odpravi s tem, da se javnosti omogoči dostop do te odločbe v upravnem postopku na drugi stopnji.
74. By its second question, the referring court asks, in essence, whether Directive 96/61 must be interpreted as requiring that the public should have access, from the beginning of the authorisation procedure for a landfill site, to an urban planning decision on the location of that installation. It is also uncertain whether the refusal to disclose that decision may be justified by reliance on commercial confidentiality which protects the information contained in that decision, or, failing that, rectified by access to that decision offered to the public concerned during the administrative procedure at second instance.	75. Najprej je treba ugotoviti, da je iz predložitvene odločbe razvidno, da se gradnja v postopku v glavni stvari nanaša na odlagališče, ki sprejme več kot 10 ton odpadkov na dan in lahko skupno sprejme več kot 25.000 ton odpadkov. Zato spada na področje uporabe Direktive 96/61, kot izhaja iz njenega člena 1 v povezavi s točko 5.4 Priloge I k tej direktivi.
75. First of all, it must be noted that it follows from the decision making the reference that the location at issue in the main proceedings is a landfill site receiving more than 10 tonnes of waste per day or with a total capacity exceeding 25 000 tonnes of waste. Therefore, it falls within the scope of Directive 96/61, as this results from Article 1, read in conjunction with point 5.4 of Annex I, thereof.	76. Člen 15 te direktive določa sodelovanje zadevne javnosti v postopku izdaje dovoljenja za nove gradnje in podrobneje določa, da takšno sodelovanje poteka pod pogoji, ki so določeni v Prilogi V k tej direktivi. V tej prilogi je določeno, da je treba javnosti med drugim posredovati natančne podatke glede organov, pri katerih je mogoče dobiti upoštevne informacije, ter navedbo datuma in kraja, kjer bodo te informacije javnosti dane na voljo.
76. Article 15 of that directive provides for the participation of the public concerned in the procedure for the issuing of permits for new installations and specifies that that participation is to occur under the conditions set out in Annex V to that directive. That annex requires that the public be informed, in particular, of details of the competent authorities from which relevant information can be obtained and an indication of the date and place where that information will be made available to the public.	77. Te določbe o sodelovanju javnosti je treba razlagati ob upoštevanju ciljev Aarhuške konvencije, s katero mora biti – kot je razvidno iz uvodne izjave 5 Direktive 2003/35, s katero je bila delno spremenjena Direktiva 96/61 – zakonodaja Unije „ustrezno usklajena“ (sodba z dne 12. maja 2011 v zadevi Bund für Umwelt und Naturschutz Deutschland, Landesverband Nordrhein-Westfalen, C 115/09, še neobjavljena v ZOdl., točka 41). Člen 6(6) te konvencije namreč določa, da mora imeti zadevna javnost možnost dostopa do vseh podatkov, ki so upoštevni v postopku odločanja o odobritvi dejavnosti iz Priloge I k tej konvenciji, med njimi zlasti odlagališča, ki sprejmejo več kot 10 ton odpadkov na dan ali imajo skupno zmogljivost več kot 25.000 ton odpadkov.
77. Those rules on public participation must be interpreted in the light of, and having regard to, the provisions of the Aarhus Convention, with which, as follows from recital 5 in the preamble to Directive 2003/35, which amended in part Directive 96/61, European Union law should be 'properly aligned' (Case C-115/09 Bund für Umwelt und Naturschutz Deutschland, Landesverband Nordrhein-Westfalen [2011] ECR I-0000, paragraph 41). However, Article 6(6) of that convention states that the public concerned must be able to have access to all information relevant to the decision making relating to the authorisation of activities referred to in Annex I to that convention, including in particular landfill sites receiving more than 10 tonnes of waste per day or with a total capacity exceeding 25 000 tonnes of waste.	78. Zato mora imeti zadevna javnost v postopku izdaje dovoljenja, kot ga določa Direktiva 96/61, načeloma dostop do vseh podatkov, ki so upoštevni za ta postopek.
78. Therefore, the public concerned by the authorisation procedure under Directive 96/61 must, in principle, have access to all information relevant to that procedure.	79. Iz predložitvene odločbe in iz spisa, predloženega Sodišču, je razvidno, da je lokacijska odločba o gradnji obrata v postopku v glavni stvari eden od ukrepov, na podlagi katerega bo sprejeta končna odločba o dovolitvi ali nedovolitvi te gradnje, in vsebuje podatke o vplivih projekta na okolje, o pogojih, ki so naloženi upravljavcu zaradi omejitve teh ukrepov, o ugovorih, ki so jih stranke navedle v lokacijskem postopku, in o razlogih, ki so utemeljevali odločitve, ki jih je pristojni organ upošteval pri izdaji lokacijske odločbe. Še več, nacionalna pravila, ki se uporabljajo, nalagajo, da mora biti priložena vlogi za izdajo dovoljenja, ki je naslovljena na pristojni organ. Torej je treba šteti, da lokacijska odločba vsebuje upoštevne podatke v smislu Priloge V k Direktivi 96/61 in da mora imeti zadevna javnost načeloma dostop do nje odločbe med postopkom za izdajo soglasja za ta obrat.
79. It follows from the decision making the reference and from the file submitted to the Court of Justice that the urban planning decision on the location of the installation at issue in the main proceedings constitutes one of the measures on the basis of which the final decision whether or not to authorise that installation will be taken and that it is to include information on the environmental impact of the project, on the conditions imposed on the operator to limit that impact, on the objections raised by the parties to the urban planning decision and on the reasons for the choices made by the competent authority to issue that urban planning decision. Moreover, the applicable national rules require that that decision be attached to the application for a permit addressed to the competent authority. It follows that that urban planning decision must be considered to include relevant information within the meaning of Annex V to Directive 96/61 and that the public concerned must therefore, in principle, be able to have access to it during the authorisation procedure for that installation.	80. Iz člena 15(4) Direktive 96/61 izhaja, da je sodelovanje javnosti lahko omejeno z omejitvami iz člena 3(2) in (3) Direktive 90/313. V času dejanskega stanja v sporu o glavni stvari pa je bila Direktiva 90/313 razveljavljena in nadomeščena z Direktivo 2003/4. Zato je ob upoštevanju korelacijske tabele, ki je priložena tej direktivi, obveznosti uskladitve zakonodaje Unije z Aarhuško konvencijo in besedila člena 15 Direktive 96/61, ki je bil sprejet v poznejši kodifikaciji z Direktivo 2008/1/ES Evropskega parlamenta in Sveta o celovitem preprečevanju in nadzorovanju onesnaževanja (UL L 24, str. 8), treba šteti, da se mora člen 15(4) Direktive 96/61 razlagati glede na omejitve, ki so določene v členu 4(1), (2) in (4) Direktive 2003/4.
80. None the less, it follows from Article 15(4) of Directive 96/61 that the participation of the public concerned may be limited by the restrictions laid down in Article 3(2) and (3) of Directive 90/313. At the time of the events in the main proceedings, Directive 90/313 had, however, been repealed and	81. V skladu s členom 4(2), prvi pododstavek, (d), Direktive 2003/4 lahko države članice predvidijo, da se zavrne zahteva za informacije o okolju, če bi razkritje negativno vplivalo na zaupnost poslovnih ali industrijskih informacij, kadar tako zaupnost predvideva nacionalna zakonodaja ali zakonodaja Unije,

replaced by Directive 2003/4. In the light of the correlation table annexed to that directive, the obligation to align European Union legislation with the Aarhus Convention and the redrafting of Article 15 of Directive 96/61 made during its subsequent codification by Directive 2008/1/EC of the European Parliament and of the Council of 15 January 2008 concerning integrated pollution prevention and control (OJ 2008 L 24, p. 8), it must be held that Article 15(4) of Directive 96/61 must be construed as referring to the restrictions under Article 4(1), (2) and (4) of Directive 2003/4.	zaradi varovanja upravičenih gospodarskih interesov.
81. Under point (d) of the first subparagraph of Article 4(2) of Directive 2003/4, Member States may provide for a request for information to be refused if disclosure of the information would adversely affect the confidentiality of commercial or industrial information where such confidentiality is provided for by national or European Union law to protect a legitimate economic interest.	82. Vendar ob upoštevanju pomena umestitve ene ali druge dejavnosti iz Direktive 96/61, in kot izhaja iz točke 79 te sodbe, to ne more biti primer odločbe, s katero upravni organ na podlagi veljavnih lokacijskih predpisov dovoli gradnjo odlagališča odpadkov, ki spada na področje uporabe te direktive.
82. However, taking account of, inter alia, the importance of the location of one or another of the activities referred to in Directive 96/61 and as results from paragraph 79 of this judgment, that cannot be the case with regard to a decision by which a public authority authorises, having regard to the applicable urban planning rules, the location of an installation which falls within the scope of that directive.	83. Tudi če ni izključeno, da lahko izjemoma nekateri elementi, ki se pojavljajo v obrazložitvi lokacijske odločbe, vsebujejo komercialne in industrijske zaupne podatke, je jasno, da je bilo v obravnavanem primeru varstvo zaupnosti teh podatkov ob kršitvi člena 4(4) Direktive 2003/4 uporabljeno za zavrnitev vsakršnega, tudi delnega dostopa javnosti do lokacijske odločbe o gradnji obrata v postopku o glavni stvari.
83. Even if it were not excluded that, exceptionally, certain elements included in the grounds for an urban planning decision may contain confidential commercial or industrial information, it is not in dispute in the present case that the protection of the confidentiality of such information was used, in breach of Article 4(4) of Directive 2003/4, to refuse the public concerned any access, even partial, to the urban planning decision concerning the location of the installation at issue in the main proceedings.	84. Torej zavrnitev dostopa javnosti do lokacijske odločbe o gradnji zadevnega obrata v postopku v glavni stvari, v upravnem postopku na prvi stopnji ne more biti utemeljena z izjemo, ki je določena v členu 15(4) Direktive 96/61. Zato mora predložitveno sodišče vedeti, ali dostop do te odločbe v upravnem postopku na drugi stopnji zadošča za odpravo pomanjkljivosti v upravnem postopku na prvi stopnji in za preprečitev posledične kršitve člena 15 Direktive 96/61.
84. It follows that the refusal to make available to the public concerned the urban planning decision concerning the location of the installation at issue in the main proceedings during the administrative procedure at first instance was not justified by the exception set out in Article 15(4) of Directive 96/61. It is for that reason necessary for the referring court to know whether the access to that decision given to the public concerned during the administrative procedure at second instance is sufficient to rectify the procedural flaw vitiating the administrative procedure at first instance and consequently rule out any breach of Article 15 of Directive 96/61.	85. Kadar ni ureditve Unije s tega področja, mora pravni red vsake države članice določiti postopkovna pravila za pravna sredstva, ki so namenjena zaščiti pravic, ki jih imajo osebe na podlagi prava Unije, pod pogojem, da ta pravila niso manj ugodna od tistih, ki urejajo podobna nacionalna pravna sredstva (načelo enakovrednosti) in da praktično ne onemogočajo ali čezmerno otežujejo izvajanja pravic, ki jih daje pravni red Unije (načelo učinkovitosti) (sodbi z dne 14. decembra 1995 v zadevi Peterbroeck, C 312/93, Recueil, str. I 4599, točka 12, in z dne 12. julija 2012 v zadevi VALE Építési, C 378/10, še neobjavljena v ZOdl., točka 48 in navedena sodna praksa).
85. In the absence of rules laid down in this field by European Union law, the detailed procedural rules designed to ensure the protection of the rights which individuals acquire under European Union law are a matter for the legal order of each Member State, provided, however, that they are not less favourable than those governing similar domestic situations (principle of equivalence) and that they do not render impossible in practice or excessively difficult the exercise of rights conferred by the European Union legal order (principle of effectiveness) (Case C 312/93 Peterbroeck [1995] ECR I-4599, paragraph 12, and Case C-378/10 VALE Építési [2012] ECR I-0000, paragraph 48 and the case-law cited).	86. Načelo enakovrednosti zahteva, da se vsa pravila glede pravnih sredstev brez razlikovanja uporabljajo za pravna sredstva, ki temeljijo na kršitvi prava Unije, in tista, ki temeljijo na kršitvi nacionalne zakonodaje (glej zlasti sodbi z dne 19. julija 2012 v zadevi Littlewoods Retail in drugi, C-591/10, še neobjavljena v ZOdl., točka 31, in z dne 4. oktobra 2012 v zadevi Byankov, C-249/11, še neobjavljena v ZOdl., točka 70). Nacionalno sodišče mora zato preveriti, ali nacionalno pravo dovoljuje odpravo primerljivih notranjih postopkovnih nepravilnosti v upravnem postopku na drugi stopnji.
86. So far as concerns the principle of equivalence, this requires that all the rules applicable to actions apply without distinction to actions based on infringement of European Union law and those based on infringement of national law (see, inter alia, Case C 591/10 Littlewoods Retail and Others [2012] ECR I 0000, paragraph 31, and Case C-249/11 Byankov [2012] ECR I 0000, paragraph 70). It is therefore for the national court to determine whether national law allows procedural flaws of a comparable internal nature to be rectified during the administrative procedure at second instance.	87. Kar zadeva načelo učinkovitosti, če pravo Unije ne more preprečiti, da je z veljavnimi nacionalnimi pravili v nekaterih primerih dovoljeno legalizirati ravnanja in akte, s katerimi se kršijo ta pravila, mora za tako možnost veljati pogoj, da je zadevnim osebam onemogočeno, da bi obšle pravila Unije ali jih ne bi uporabile, in da mora ta možnost ostati izjemna (sodba z dne 3. julija 2008 v zadevi Komisija proti Irski, C 215/06, ZOdl., str. I 4911, točka 57).
87. As regards the principle of effectiveness, while European Union law cannot preclude the applicable national rules from allowing, in certain cases, the regularisation of operations or measures which are unlawful in the light of European Union law, such a possibility is subject to the condition that it does not offer the persons concerned the opportunity to circumvent the European Union rules or to dispense with applying them, and that it should remain the exception (Case C 215/06 Commission v Ireland [2008] ECR I-4911, paragraph 57).	88. V tem pogledu je treba poudariti, da člen 15 Direktive 96/61 državam članicam nalaga, da morajo javnosti pravočasno dati možnost učinkovitega sodelovanja v postopku izdaje dovoljenja. To določbo je treba razlagati ob upoštevanju uvodne izjave 23 te direktive, v skladu s katero mora imeti javnost pred vsako odločitvijo dostop do informacij o vlogah za dovoljenje za nove obrate, ter člena 6 Aarhuške konvencije, ki določa po eni strani, da se sodelovanje javnosti začne že na začetku odločanja, to se pravi, ko so še vse možnosti odprte in lahko javnost učinkovito sodeluje, in po drugi strani, da mora imeti dostop do upoštevnih informacij od takrat, ko so dostopne. Iz tega izhaja, da mora imeti zadevna javnost na voljo vse upoštevne podatke od začetka upravnega postopka na prvi stopnji, dokler ni sprejeta prvostopenjska odločba, če so te informacije dostopne, ko poteka ta faza postopka.
88. In that regard, it is important to note that Article 15 of Directive 96/61 requires the Member States to ensure that the public concerned are given early and effective opportunities to participate in the procedure for issuing a permit. That provision must be interpreted in the light of recital 23 in the preamble to that directive, according to which the public must have access, before any decision is taken, to information relating to applications for permits for new installations, and of Article 6 of the Aarhus Convention, which provides, first, for early public participation, that is to say, when all options are open and effective public participation can take place, and, second, for access to relevant information to be provided as soon as it becomes available. It follows that the public concerned must have all of the relevant information from the stage of the administrative procedure at first instance, before a first decision has been adopted, to the extent that that information is available on the date of that stage of the procedure.	89. Glede vprašanja, ali načelo učinkovitosti nasprotuje odpravi pomanjkljivosti v postopku na drugi stopnji tako, da se javnosti omogoči dostop do upoštevnih dokumentov, ki niso bili dostopni v upravnem postopku na prvi stopnji, je iz podatkov, ki jih je posredovalo predložitveno sodišče, razvidno, da ima v skladu z nacionalno zakonodajo upravni organ na drugi stopnji pooblastilo za spreminjanje prvostopenjskih upravnih odločb. Vendar mora predložitveno sodišče po eni strani preveriti, ali so v smislu člena 15(1) Direktive 96/61, ki se razlaga ob upoštevanju člena 6(4) Aarhuške konvencije, v okviru upravnega postopka na drugi stopnji odprte še vse možnosti, in po drugi strani, ali odprava pomanjkljivosti s tem, da se javnosti razkrijejo upoštevni dokumenti, tej javnosti še dopušča, da učinkovito sodeluje v postopku odločanja.
89. As for the question whether the principle of effectiveness precludes	90. Zato načelo učinkovitosti ne nasprotuje temu, da neupravičena zavrnitev

rectification of the procedure at second instance by making available to the public relevant documents which were not accessible during the administrative procedure at first instance, it is apparent from the information provided by the referring court that, under the applicable national legislation, the administrative body at second instance has the power to amend the administrative decision at first instance. However, it is for the referring court to determine whether, first, in the context of the administrative procedure at second instance, all options and solutions remain possible for the purposes of Article 15(1) of Directive 96/61, interpreted in the light of Article 6(4) of the Aarhus Convention, and, second, regularisation at that stage of the procedure by making available to the public concerned relevant documents still allows that public effectively to influence the outcome of the decision-making process.	zagotovitve dostopa zadevne javnosti do lokacijske odločbe med upravnim postopkom na prvi stopnji ne bi mogla biti odpravljena med upravnim postopkom na drugi stopnji, če so na voljo še vse možnosti in rešitve in če odprava nepravilnosti v tej fazi postopka še dovoljuje zadevni javnosti, da učinkovito vpliva na postopek odločanja, kar mora preveriti nacionalno sodišče.
90. Consequently, the principle of effectiveness does not preclude the possibility of rectifying, during the administrative procedure at second instance, an unjustified refusal to make available to the public concerned the urban planning decision at issue in the main proceedings during the administrative procedure at first instance, provided that all options and solutions remain possible and that rectification at that stage of the procedure still allows that public effectively to influence the outcome of the decision-making process, this being a matter for the national court to determine.	91. Zato je treba na drugo vprašanje odgovoriti, da je treba Direktivo 96/61 razlagati tako, da:
91. Therefore, the answer to the second question is that Directive 96/61 must be interpreted as meaning that it:	– nalaga, da ima javnost dostop do lokacijske odločbe, kakršna je v postopku v glavni stvari, od začetka postopka izdaje dovoljenja za zadevni obrat;
– requires that the public concerned have access to an urban planning decision, such as that at issue in the main proceedings, from the beginning of the authorisation procedure for the installation concerned,	– pristojnim nacionalnim organom ne dovoljuje, da javnosti zavrnejo dostop do takšne odločbe s sklicevanjem na varstvo poslovne in industrijske tajnosti, ki jo določa nacionalno pravo ali pravo Unije, zato da bi zavarovali legitimne gospodarske interese; in
– does not allow the competent national authorities to refuse the public concerned access to such a decision by relying on the protection of the confidentiality of commercial or industrial information where such confidentiality is provided for by national or European Union law to protect a legitimate economic interest, and	– ne nasprotuje temu, da je neupravičena zavrnitev dostopa javnosti do lokacijske odločbe, kakršna je v postopku v glavni stvari, v upravnem postopku na prvi stopnji lahko odpravljena v upravnem postopku na drugi stopnji, če so odprte še vse možnosti in če odprava nepravilnosti na tej stopnji postopka še omogoča javnosti, da vpliva na izid postopka odločanja, kar mora preveriti nacionalno sodišče.
– does not preclude the possibility of rectifying, during the administrative procedure at second instance, an unjustified refusal to make available to the public concerned an urban planning decision, such as that at issue in the main proceedings, during the administrative procedure at first instance, provided that all options and solutions remain possible and that rectification at that stage of the procedure still allows that public effectively to influence the outcome of the decision-making process, this being a matter for the national court to determine.	Tretje vprašanje
The third question	92. S tretjim vprašanjem predložitveno sodišče v bistvu sprašuje, ali je treba Direktivo 85/337 razlagati tako, da nasprotuje temu, da se mnenje o presoji vplivov projekta na okolje veljavno podaljša več let po njegovi izdaji in ali v tem primeru predpisuje novo presojo vplivov tega projekta na okolje.
92. By its third question, the referring court asks, in essence, whether Directive 85/337 must be interpreted as precluding the validity of an opinion on the assessment of the environmental impact of a project from being validly extended for several years after its adoption and whether, in such a case, it requires that a new assessment of the environmental impact of that project be undertaken.	93. Glede tega inšpekcia in slovaška ter češka vlada navajajo, da se Direktiva 85/337 ne uporablja ratione temporis za položaj, na katerega se sklicuje predložitveno sodišče.
93. In that regard, the inšpekcia and the Slovak and Czech Governments maintain that Directive 85/337 is not applicable, ratione temporis , to the situation described by the referring court.	94. Iz ustaljene sodne prakse Sodišča izhaja, da se načelo, da je za projekte, ki bi lahko precej vplivali na okolje, treba opraviti okoljsko presojo, ne uporablja, če je bila uradna zahteva za odobritev projekta vložena pred iztekom roka za prenos Direktive 85/337 (sodbi z dne 11. avgusta 1995 v zadevi Komisija proti Nemčiji, C 431/92, Recueil, str. I 2189, točki 29 in 32, in z dne 18. junija 1998 v zadevi Gedeputeerde Staten van Noord-Holland, C 81/96, Recueil, str. I 3923, točka 23).
94. According to settled case-law, the principle that projects likely to have significant effects on the environment must be subject to an environmental assessment does not apply where the application for authorisation for a project was formally lodged before the expiry of the period set for transposition of Directive 85/337 (Case C 431/92 Commission v Germany [1995] ECR I 2189, paragraphs 29 and 32, and Case C 81/96 Gedeputeerde Staten van Noord-Holland [1998] ECR I 3923, paragraph 23).	95. Ta direktiva se namreč pretežno nanaša na obsežne projekte, za izvedbo katerih je pogosto potrebnega veliko časa. Zato bi bilo neprimerno, da bi se postopki, ki so zapleteni že na nacionalni ravni, otežili in podaljšali zaradi posebnih zahtev, ki jih določa ta direktiva, in da bi bili prizadeti že oblikovani položaji (zgoraj navedena sodba Gedeputeerde Staten van Noord-Holland, točka 24).
95. That directive is primarily designed to cover large-scale projects which will most often require a long time to complete. It would therefore not be appropriate for the relevant procedures, which are already complex at national level, to be made even more cumbersome and time-consuming by the specific requirements imposed by that directive and for situations already established to be affected by it (Gedeputeerde Staten van Noord-Holland , paragraph 24).	96. V obravnavanem primeru je iz spisa, predloženega Sodišču, razvidno, da so se ukrepi upravljavca za pridobitev soglasja za izvedbo projekta odlagališča v postopku v glavni stvari začeli 16. decembra 1998 z vložitvijo vloge za presojo vplivov tega projekta na okolje. Iz člena 2 Akta o pogojih pristopa Češke republike, Republike Estonije, Republike Ciper, Republike Latvije, Republike Litve, Republike Madžarske, Republike Malte, Republike Poljske, Republike Slovenije in Slovaške republike in prilagoditvah Pogodb, na katerih temelji Evropska unija (UL 2003, L 236, str. 33) izhaja, da bi morala Slovaška republika uveljaviti Direktivo 85/337 z dnem pristopa te države članice k Uniji, torej s 1. majem 2004.
96. In the present case, it is apparent from the documents before the Court that the operator's steps to obtain the permit to complete the landfill project at issue in the main proceedings started on 16 December 1998 with the lodging of an application for an environmental impact assessment in respect of that project. However, it follows from Article 2 of the Act concerning the conditions	97. Vendar je treba upoštevati, da je morala slovaška uprava izdati soglasje za izvedbo odlagališča v postopku v glavni stvari, kar je zahtevalo tri zaporedne postopke, pri čemer se je vsak končal z izdajo odločbe.

of accession of the Czech Republic, the Republic of Estonia, the Republic of Cyprus, the Republic of Latvia, the Republic of Lithuania, the Republic of Hungary, the Republic of Malta, the Republic of Poland, the Republic of Slovenia and the Slovak Republic and the adjustments to the Treaties on which the European Union is founded (OJ 2003 L 236, p. 33) that Directive 85/337 had to be implemented by the Slovak Republic with effect from the date of that Member State's accession to the European Union, namely 1 May 2004.	
97. Nevertheless, it must be noted that the grant by the Slovak administration of the permit to complete the landfill site at issue in the main proceedings required three consecutive procedures, each of which led to the adoption of a decision.	98. Vlogi upravljavca v prvih dveh postopkih sta bili vloženi 16. decembra 1998 in 7. avgusta 2002, torej pred potekom roka za prenos Direktive 85/337. Vloga za izdajo integralnega dovoljenja je bila vložena 25. septembra 2007, torej po poteku tega roka. Zato je treba ugotoviti, ali je za vložitev prvih dveh vlog mogoče šteti, da označuje uradni začetek postopka izdaje dovoljenja v smislu sodne prakse iz točke 94 te sodbe.
98. The operator's applications concerning the first two procedures were made on 16 December 1998 and on 7 August 2002, that is to say, before the expiry of the period set for the transposition of Directive 85/337. By contrast, the application for the integrated permit was submitted on 25 September 2007, which is after the expiry of that period. Therefore, it is necessary to determine whether the submission of the first two applications may be regarded as marking the formal initiation of the authorisation procedure within the meaning of the case-law referred to in paragraph 94 of this judgment.	99. V tem pogledu je najprej treba ugotoviti, da se vloge iz prvih dveh faz postopka ne zamenjujejo s preprostimi neformalnimi stiki, ki ne morejo označevati uradnega začetka postopka izdaje dovoljenja (glej v tem smislu zgoraj navedeno sodbo Komisija proti Nemčiji, točka 32).
99. In that regard, it is important first of all to state that the applications submitted during the first two stages of the procedure are not to be confused with mere informal contacts which are not capable of demonstrating the formal opening of the authorisation procedure (see, to that effect, Case C 431/92 Commission v Germany , paragraph 32).	100. Treba je poudariti, da je bila presoja vplivov na okolje leta 1999 izvedena za dovolitev izvedbe projekta odlagališča, ki je predmet integralnega dovoljenja. Nadaljevanje postopka in zlasti izdaja dovoljenja za gradnjo temeljita na tej presoji. Kot je navedla generalna pravobranilka v točki 115 sklepnih predlogov, dejstvo, da se v slovaškem pravu vplivi na okolje presojajo ločeno od dejanskega postopka izdaje dovoljenja, ne bi smelo razširiti časovnega okvira uporabe Direktive 85/337.
100. Next, it must be pointed out that the environmental impact assessment completed in 1999 was carried out in order to enable completion of the landfill project which was the subject of the integrated permit. The subsequent steps taken in the procedure, and in particular, the issue of the construction permit, are based on that assessment. As the Advocate General has noted in point 115 of her Opinion, the fact that, under Slovak law, environmental impact is assessed separately from the actual authorisation procedure cannot extend the scope in time of Directive 85/337.	101. Iz stališč, navedenih v točki 79 te sodbe, izhaja, da je lokacijska odločba o gradnji odlagališča v postopku v glavni stvari nepogrešljiv del, da bi upravljavec lahko dobil dovoljenje za izvedbo projekta zadevnega odlagališča. Ta odločba med drugim nalaga več pogojev, ki se naložijo upravljavcu za izvedbo projekta.
101. Likewise, it is apparent from the considerations set out in paragraph 79 of this judgment that the urban planning decision on the location of the landfill site at issue in the main proceedings constitutes an indispensable stage for the operator to be authorised to carry out the landfill project at issue. That decision, moreover, imposes a number of conditions with which the operator must comply when carrying out his project.	102. Sodišče je namreč v primerljivem postopku presodilo, da je za določitev časovne veljavnosti direktive, ki določa okoljsko presojo, upoštevan datum uradne predstavitve projekta, saj so različne faze preučitve projekta toliko povezane, da pomenijo zapleteno operacijo (sodba z dne 23. marca 2006 v zadevi Komisija proti Avstriji, C 209/04, ZOdl., str. I 2755, točka 58).
102. However, when examining a comparable procedure, the Court of Justice has taken the view that the date which should be used as a reference to determine whether the application in time of a directive imposing an environmental impact assessment was the date on which the project was formally submitted because the various phases of examination of a project are so closely connected that they represent a complex operation (Case C-209/04 Commission v Austria [2006] ECR I 2755, paragraph 58).	103. Nazadnje, iz ustaljene sodne prakse izhaja, da je „soglasje za izvedbo" v smislu Direktive 85/337 lahko sestavljeno iz več ločenih odločb, kadar nacionalni postopek, ki nosilcu projekta dovoljuje začetek del za izvedbo projekta, zajema več zaporednih faz (glej v tem smislu sodbi z dne 7. januarja 2004 v zadevi Wells, C 201/02, Recueil, str. I 723, točka 52, in z dne 4. maja 2006 v zadevi Komisija proti Združenemu kraljestvu, C 508/03, ZOdl., str. I 3969, točka 102). To kaže, da je v tem primeru kot datum uradne vložitve vloge za izdajo dovoljenja za izvedbo projekta treba določiti dan, ko je nosilec projekta vložil vlogo, ki se nanaša na začetek prve faze postopka.
103. Finally, it is apparent from settled case-law that an authorisation within the meaning of Directive 85/337 may be formed by the combination of several distinct decisions when the national procedure which allows the developer to be authorised to start works to complete his project includes several consecutive steps (see, to that effect, Case C-201/02 Wells [2004] ECR I-723, paragraph 52, and Case C-508/03 Commission v United Kingdom [2006] ECR I-3969, paragraph 102). It follows that, in that situation, the date on which the application for a permit for a project was formally lodged must be fixed as the day on which the developer submitted an application seeking to initiate the first stage of the procedure.	104. Iz zgornjih ugotovitev izhaja, da je bila vloga za izdajo dovoljenja za izvedbo projekta odlagališča v postopku v glavni stvari vložena pred potekom roka za prenos Direktive 85/337. Zato se obveznosti, ki izhajajo iz te direktive, ne uporabljajo za ta projekt, zaradi česar ni treba odgovoriti na tretje vprašanje.
104. It follows from the foregoing considerations that the application for a permit for the landfill project at issue in the main proceedings was formally lodged before the date of the expiry of the period set for transposition of Directive 85/337. Consequently, the obligations arising from that directive do not apply to that project and therefore it is not necessary to answer the third question.	Četrto vprašanje
The fourth question	105. S četrtim vprašanjem predložitveno sodišče v bistvu sprašuje, ali je treba člene 1 in 15a Direktive 96/61 v povezavi s členoma 6 in 9 Aarhuške konvencije razumeti tako, da imajo člani javnosti v okviru tožbe, ki jo določa člen 15a te direktive, možnost, da pri sodišču ali neodvisnem in nepristranskem organu, ki je ustanovljen z zakonom, zahtevajo odreditev začasnih ukrepov, ki bi začasno zadržali uporabo dovoljenja za izvedbo v smislu člena 4 te direktive, dokler ni dokončno odločeno o tej zadevi.
105. By its fourth question, the referring court asks, in essence, whether Articles 1 and 15a of Directive 96/61, read in conjunction with Articles 6 and 9 of the Aarhus Convention, must be interpreted as meaning that members of the public concerned must be able, in the context of an action under Article 15a of that directive, to ask the court or the competent independent and	106. Države članice imajo na podlagi svoje procesne avtonomije in brez poseganja v spoštovanje načel enakovrednosti in učinkovitosti pri izvajanju člena 9 Aarhuške konvencije in člena 15a Direktive 96/61 manevrski prostor. Zlasti lahko določijo, katero sodišče ali neodvisen in nepristranski organ, ki je bil ustanovljen z zakonom, je pristojen za odločanje o pravnih sredstvih, na katera

impartial body established by law to order interim measures of a nature temporarily to suspend the application of a permit within the meaning of Article 4 of that directive pending the final decision.	se nanašata ti določbi, in v skladu s katerimi postopkovnimi pravili, da bi se upoštevale zgoraj navedene določbe (glej po analogiji sodbo z dne 18. oktobra 2011 v združenih zadevah Boxus in drugi, od C 128/09 do C 131/09, C 134/09 in C 135/09, še neobjavljena v ZOdl., točka 52).
106. By virtue of their procedural autonomy, the Member States have discretion in implementing Article 9 of the Aarhus Convention and Article 15a of Directive 96/61, subject to compliance with the principles of equivalence and effectiveness. It is for them, in particular, to determine, in so far as the abovementioned provisions are complied with, which court of law or which independent and impartial body established by law is to have jurisdiction in respect of the review procedure referred to in those provisions and what procedural rules are applicable (see, by analogy, Joined Cases C 128/09 to C 131/09, C 134/09 and C 135/09 Boxus and Others [2011] ECR I-0000, paragraph 52).	107. Poleg tega iz ustaljene sodne prakse izhaja, da mora imeti nacionalno sodišče, ki mu je predložen spor, urejen s pravom Unije, možnost izdaje začasnega ukrepa, da bi zagotovilo polni učinek sodne odločbe, ki bo izdana o obstoju pravic, zatrjevanih na podlagi prava Unije (sodbi z dne 19. junija 1990 v zadevi Factortame in drugi, C 213/89, Recueil, str. I 2433, točka 21, in z dne 13. marca 2007 v zadevi Unibet, C 432/05, ZOdl., str. I 2271, točka 67).
107. Moreover, it is apparent from settled-case law that a national court seised of a dispute governed by European Union law must be in a position to grant interim relief in order to ensure the full effectiveness of the judgment to be given on the existence of the rights claimed under European Union law (Case C-213/89 Factortame and Others [1990] ECR I-2433, paragraph 21, and Case C-432/05 Unibet [2007] ECR I 2271, paragraph 67).	108. Treba je dodati, da se mora pravica do pritožbe, ki je določena v členu 15a Direktive 96/61, razlagati glede na namen te direktive. Sodišče je že razsodilo, da je njen namen, kot je opredeljen v členu 1, doseči celovito preprečevanje in nadzorovanje onesnaževanja okolja z vzpostavitvijo ukrepov za preprečevanje ali za zmanjševanje emisij v zrak, vodo in tla pri dejavnostih, navedenih v Prilogi I, da bi dosegli visoko stopnjo varstva okolja (sodbi z dne 22. januarja 2009 v zadevi Association nationale pour la protection des eaux et rivières in OABA, C 473/07, ZOdl., str. I 319, točka 25, in z dne 15. decembra 2011 v zadevi Møller, C 585/10, še neobjavljena v ZOdl., točka 29).
108. It must be added that the right to bring an action provided for by Article 15a of Directive 96/61 must be interpreted in the light of the purpose of that directive. The Court has already held that that purpose, as laid down in Article 1 of the directive, is to achieve integrated prevention and control of pollution by putting in place measures designed to prevent or reduce emissions of the activities listed in Annex I into the air, water and land in order to achieve a high level of protection of the environment (Case C-473/07 Association nationale pour la protection des eaux et rivières and OABA [2009] ECR I-319, paragraph 25, and Case C-585/10 Møller [2011] ECR I-0000, paragraph 29).	109. Vložitev tožbe, določene v členu 15a Direktive 96/61, ne bi dopuščala učinkovitega preprečevanja onesnaževanja, če ne bi bilo mogoče preprečiti, da obrat, ki mu je bilo soglasje izdano ob kršitvi te direktive, še naprej deluje do sprejetja dokončne odločitve o zakonitosti tega soglasja. Torej jamstvo učinkovitega pravnega sredstva, ki je določeno v členu 15a, zahteva, da imajo člani zadevne javnosti pravico, da pred sodiščem ali neodvisnim in nepristranskim pristojnim organom pravico zahtevajo sprejetje začasnih ukrepov za preprečitev takega onesnaževanja, vključno z začasno odložitvijo spornega dovoljenja v konkretnem primeru.
109. However, exercise of the right to bring an action provided for by Article 15a of Directive 96/61 would not make possible effective prevention of that pollution if it were impossible to prevent an installation which may have benefited from a permit awarded in infringement of that directive from continuing to function pending a definitive decision on the lawfulness of that permit. It follows that the guarantee of effectiveness of the right to bring an action provided for in that Article 15a requires that the members of the public concerned should have the right to ask the court or competent independent and impartial body to order interim measures such as to prevent that pollution, including, where necessary, by the temporary suspension of the disputed permit.	110. Glede na zgoraj navedeno je treba na četrto vprašanje odgovoriti, da je treba člen 15a Direktive 96/61 razlagati tako, da morajo imeti člani zadevne javnosti možnost, da v okviru tožbe, predvidene v tej določbi, zahtevajo, da sodišče ali neodvisni in nepristranski organ, določen z zakonom, odredi začasne ukrepe, ki so takšni, da začasno odložijo uporabo dovoljenja v smislu člena 4 te direktive do dokončne odločitve o tej zadevi.
110. In the light of the foregoing, the answer to the fourth question is that Article 15a of Directive 96/61 must be interpreted as meaning that members of the public concerned must be able, in the context of the action provided for by that provision, to ask the court or competent independent and impartial body established by law to order interim measures such as temporarily to suspend the application of a permit, within the meaning of Article 4 of that directive, pending the final decision.	Peto vprašanje
The fifth question	111. S petim vprašanjem predložitveno sodišče v bistvu sprašuje, ali odločba nacionalnega sodišča, ki je sprejeta v nacionalnem postopku izpolnjevanja obveznosti, ki izhajajo iz člena 15a Direktive ter člena 9(2) in (4) Aarhuške konvencije, ki razveljavlja soglasje, izdano ob kršitvi določb te direktive, lahko pomeni neupravičeno kršitev lastninske pravice up ravljavca, ki je zagotovljena v členu 17 Listine.
111. By its fifth question, the referring court asks, in essence, whether a decision of a national court, taken in the context of national proceedings implementing the obligations resulting from Article 15a of Directive 96/61 and from Article 9(2) and (4) of the Aarhus Convention, which annuls a permit granted in infringement of the provisions of that directive, is capable of constituting an unjustified interference with the developer's right to property enshrined in Article 17 of the Charter of Fundamental Rights of the European Union.	112. Kot je navedla generalna pravobranilka v točkah od 182 do 184 sklepnih predlogov, pogoji glede obratov, ki jih določa Direktiva 96/61, omejujejo izkoriščanje lastnine na zadevnih območjih in spadajo na področje uporabe te direktive.
112. As the Advocate General has noted in points 182 to 184 of her Opinion, the conditions set by Directive 96/61 restrict use of the right to property on land affected by an installation coming within the scope of that directive.	113. Vendar je izvrševanje lastninske pravice mogoče omejiti, če te omejitve dejansko ustrezajo ciljem v splošnem interesu in glede na zastavljene cilje niso nesorazmeren in nedopusten ukrep, ki ogroža bistvo tako zagotovljene pravice (sodbi z dne 3. septembra 2008 v združenih zadevah Kadi in Al Barakaat International Foundation proti Svetu in Komisiji, C 402/05 P in C 415/05 P, ZOdl., str. I-6351, točka 355, in z dne 9. marca 2010 v združenih zadevah ERG in drugi, C 379/08 in C 380/08, ZOdl., str. I 2007, točka 80).
113. However, the right to property is not an absolute right and must be viewed in relation to its social function. Consequently, its exercise may be restricted, provided that those restrictions in fact correspond to objectives of general interest and do not constitute, in relation to the aim pursued, disproportionate and intolerable interference, impairing the very substance of the right guaranteed (Joined Cases C 402/05 P and C 415/05 P Kadi and Al Barakaat International Foundation v Council and Commission [2008] ECR I 6351, paragraph 355, and Joined Cases C-379/08 and C-380/08 ERG and	114. Iz ustaljene sodne prakse je glede ciljev v splošnem interesu, navedenih zgoraj, razvidno, da je varstvo okolja med temi cilji in da torej lahko utemelji omejitev izvrševanja lastninske pravice (glej sodbe z dne 7. februarja 1985 v zadevi ADBHU, 240/83, Recueil, str. 531, točka 13; z dne 20. septembra 1988 v zadevi Komisija proti Danski, 302/86, Recueil, str. 4607, točka 8, in z dne 2. aprila 1998 v zadevi Outokumpu, C 213/96, Recueil, str. I 1777, točka 32, ter zgoraj navedena sodba ERG in drugi, C 379/08 in C 380/08, točka 81).

Others [2010] ECR I 2007, paragraph 80).	
114. As regards the objectives of general interest referred to above, established case law shows that protection of the environment is one of those objectives and is therefore capable of justifying a restriction on the use of the right to property (see Case 240/83 ADBHU [1985] ECR 531, paragraph 13; Case 302/86 Commission v Denmark [1988] ECR 4607, paragraph 8; Case C 213/96 Outokumpu [1998] ECR I 1777, paragraph 32; and ERG and Others , paragraph 81).	115. Glede sorazmernosti poseganja v zadevno lastninsko pravico, kolikor je poseganje mogoče določiti, zadošča ugotovitev, da Direktiva 96/61 vzpostavlja ravnovesje med zahtevami te pravice in zahtevami, ki so povezane z varstvom okolja.
115. As regards the proportionality of the infringement of the right of property at issue, where such an infringement may be established, it is sufficient to state that Directive 96/61 operates a balance between the requirements of that right and the requirements linked to protection of the environment.	116. Zato je treba na peto vprašanje odgovoriti, da odločba nacionalnega sodišča, sprejeta v nacionalnem postopku za izpolnitev obveznosti iz člena 15a Direktive 96/61 ter člena 9(2) in (4) Aarhuške konvencije, s katero razglasi ničnost soglasja, izdanega ob kršitvi določb te direktive, kot takšna ne more pomeniti neutemeljenega poseganja v lastninsko pravico upravljavca iz člena 17 Listine Evropske unije o temeljnih pravicah.
116. Consequently, the answer to the fifth question is that a decision of a national court, taken in the context of national proceedings implementing the obligations resulting from Article 15a of Directive 96/61 and from Article 9(2) and (4) of the Aarhus Convention, which annuls a permit granted in infringement of the provisions of that directive is not capable, in itself, of constituting an unjustified interference with the developer's right to property enshrined in Article 17 of the Charter of Fundamental Rights of the European Union.	Stroški
Costs	117. Ker je ta postopek za stranke v postopku v glavni stvari ena od stopenj v postopku pred predložitvenim sodiščem, to odloči o stroških. Stroški, priglašeni za predložitev stališč Sodišču, ki niso stroški omenjenih strank, se ne povrnejo.
117. 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.	

Operative part

On those grounds, the Court (Grand Chamber) hereby rules:	Iz teh razlogov je Sodišče (veliki senat) razsodilo:
1. Article 267 TFEU must be interpreted as meaning that a national court, such as the referring court, is obliged to make, of its own motion, a request for a preliminary ruling to the Court of Justice of the European Union even though it is ruling on a referral back to it after its first decision was set aside by the constitutional court of the Member State concerned and even though a national rule obliges it to resolve the dispute by following the legal opinion of that latter court.	1. Člen 267 PDEU je treba razlagati tako, da mora nacionalno sodišče, kakršno je predložitveno sodišče, Sodišču Evropske unije po uradni dolžnosti predložiti predlog za sprejetje predhodne odločbe, tudi če samo ponovno odloča o zadevi po razveljavitvi svoje prve odločbe s strani ustavnega sodišča zadevne države članice in tudi, če mu pravilo nacionalnega prava nalaga, da mora pri razrešitvi spora slediti pravni presoji hierarhično višjega sodišča.
2. Council Directive 96/61/EC of 24 September 1996 concerning integrated pollution prevention and control, as amended by Regulation (EC) No 166/2006 of the European Parliament and of the Council of 18 January 2006, must be interpreted as meaning that it:	2. Direktivo Sveta 96/61/ES z dne 24. septembra 1996 o celovitem preprečevanju in nadzorovanju onesnaževanja, kakor je bila spremenjena z Uredbo Evropskega parlamenta in Sveta (ES) št. 166/2006 z dne 18. januarja 2006, je treba razlagati tako, da:
– requires that the public concerned have access to an urban planning decision, such as that at issue in the main proceedings, from the beginning of the authorisation procedure for the installation concerned,	– nalaga, da ima javnost dostop do lokacijske odločbe, kakršna je v postopku v glavni stvari, od začetka postopka izdaje dovoljenja za zadevni obrat;
– does not allow the competent national authorities to refuse the public concerned access to such a decision by relying on the protection of the confidentiality of commercial or industrial information where such confidentiality is provided for by national or European Union law to protect a legitimate economic interest, and	– pristojnim nacionalnim organom ne dovoljuje, da javnosti zavrnejo dostop do takšne odločbe s sklicevanjem na varstvo poslovne in industrijske tajnosti, ki jo določa nacionalno pravo ali pravo Unije, zato da bi zavarovali legitimne gospodarske interese; in
– does not preclude the possibility of rectifying, during the administrative procedure at second instance, an unjustified refusal to make available to the public concerned an urban planning decision, such as that at issue in the main proceedings, during the administrative procedure at first instance, provided that all options and solutions remain possible and that regularisation at that stage of the procedure still allows that public effectively to influence the outcome of the decision-making process, this being a matter for the national court to determine.	– ne nasprotuje temu, da je neupravičena zavrnitev dostopa javnosti do lokacijske odločbe, kakršna je v postopku v glavni stvari, v upravnem postopku na prvi stopnji lahko odpravljena v upravnem postopku na drugi stopnji, če so odprte še vse možnosti in če odprava nepravilnosti na tej stopnji postopka še omogoča javnosti, da vpliva na izid postopka odločanja, kar mora preveriti nacionalno sodišče.
3. Article 15a of Directive 96/61, as amended by Regulation No 166/2006, must be interpreted as meaning that members of the public concerned must be able, in the context of the action provided for by that provision, to ask the court or competent independent and impartial body established by law to order interim measures such as temporarily to suspend the application of a permit, within the meaning of Article 4 of that directive, pending the final decision.	3. Člen 15a te Direktive 96/61, kakor je bila spremenjena z Uredbo št. 166/2006, je treba razlagati tako, da morajo imeti člani zadevne javnosti možnost, da v okviru tožbe, predvidene v tej določbi, zahtevajo, da sodišče ali neodvisni in nepristranski organ, določen z zakonom odredi začasne ukrepe, ki so takšni, da začasno odložijo uporabo dovoljenja v smislu člena 4 te direktive do dokončne odločitve o tej zadevi.
4. A decision of a national court, taken in the context of national proceedings implementing the obligations resulting from Article 15a of Directive 96/61, as amended by Regulation No 166/2006, and from Article 9(2) and (4) of the Convention on access to information, public participation in decision-making and access to justice in environmental matters, signed in Aarhus on 25 June 1998 and approved on behalf of the European Community by Council Decision 2005/370/EC of 17 February 2005, which annuls a permit granted in infringement of the provisions of that directive is not capable, in itself, of constituting an unjustified interference with the developer's right to property enshrined in Article 17 of the Charter of Fundamental Rights of the European Union.	4. Odločba nacionalnega sodišča, sprejeta v nacionalnem postopku za izpolnitev obveznosti iz člena 15a Direktive 96/61, kakor je bila spremenjena z Uredbo št. 166/2006, ter člena 9(2) in (4) Konvencije o dostopu do informacij, udeležbi javnosti pri odločanju in dostopu do pravnega varstva v okoljskih zadevah, ki je bila podpisana v Aarhusu 25. junija 1998 in je bila v imenu Evropske skupnosti odobrena s Sklepom Sveta 2005/370/ES z dne 17. februarja 2005, s katero se razglasi ničnost soglasja, izdanega ob kršitvi določb te direktive, kot takšna ne more pomeniti neutemeljenega poseganja v lastninsko pravico upravljavca iz člena 17 Listine Evropske unije o temeljnih pravicah.

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