

**Access to
Justice in Environmental Matters**

New development

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Deer Reserve



Facts

- A-W is informed by a local authority
 - administrative A- proceedings is open
 - to grant a permit for a project
 - extending a deer reserve
 - located in special protection area
 - the construction of an enclosure
 - applicant
 - private company



Main + Previous A-Process

- A-W requested to be accorded the status of party
 - argued matters which can preclude grant of permit
- in particular
 - creation of barriers against free migration procedure

Main graphics of proceedings

18/11/08 23/04/09 10/06/09



administrative authorisation procedure

11/06/09 23/08/11 26 January 2012



12/09/12 28 February 2013



23/11/13 14 February 2017



Administrative Authorisation proceedings

April 2009 – district authority rejected request

„negative party decision“

1st June 2009 – higher authority dismissed
administrative appeal

„only one participant“

10 June – district authority granted the permit
waiver of administrative appeal

Gate is closed !

- SSC:
 - the gate of
 - administrative
 - proceedings
 - was
 - definitely
 - closed for
 - anyone at this moment



Judicial ping-pong

June 2009



March 2011 (Slovak Brown Case) → August 2011

January 2012

September 2012

February 2013



Core of SSC Judgment

- AD gate is definitively closed
- no possibility to re-open AD proceedings
 - procedural rights which the status confers can be exercised only if the proceedings is still pending
- BUT applicant must be informed
 - bring an action of „omitted“ party
 - strict time limit of 3 years

to be continued ...

- 23 November 2013
 - regional court rejected A-W action
- A-W court appeal
- 14 April 2015
 - another senate of SSC
 - prejudicial questions for CJ EU

C-243/15 8 November 2016

- Is it possible ?
- Art. 9(2) and (4) of the A- Convention enshrines the right to effective judicial protection, in conditions ensuring wide access to justice, of the rights which an environmental organisation meeting the conditions laid down in Article 2(5) of A- Convention derives from EU law read in conjunction with Art. 6(1)(b) of A- Convention, it must be interpreted as precluding, in a situation such as that at issue in the main proceedings, an interpretation of rules of national procedural law to the effect that an action against a decision

Final answer II.

- does not necessarily have to be examined during the course of that procedure, which may be definitively concluded before a definitive judicial decision on possession of the status of party is adopted, and is automatically dismissed as soon as that project is authorised, thereby requiring that organisation to bring an action of another type in order to obtain that status and to secure judicial review of compliance by the competent national authorities with their obligations stemming from Article 6(3) of that directive.

Gate is opened !

- 14 February 2017
- judgment of SSC
- order to reopened



End of presentation

