Lingua del documento :

ECLI:EU:C:2024:542

Provisional text

JUDGMENT OF THE COURT (Grand Chamber)

25 June 2024 (*)

(Reference for a preliminary ruling – Environment – Article 191 TFEU – Industrial emissions – Directive 2010/75/EU – Integrated pollution prevention and control – Articles 1, 3, 8, 11, 12, 14, 18, 21 and 23 – Articles 35 and 37 of the Charter of Fundamental Rights of the European Union – Procedures for the grant and reconsideration of a permit to operate an installation – Measures for the protection of the environment and human health – Right to a clean, healthy and sustainable environment)

In Case C-626/22,

REQUEST for a preliminary ruling under Article 267 TFEU from the Tribunale di Milano (District Court, Milan, Italy), made by decision of 16 September 2022, received at the Court on 3 October 2022, in the proceedings

C.Z. and Others

v

Ilva SpA in Amministrazione Straordinaria,

Acciaierie d'Italia Holding SpA,

Acciaierie d'Italia SpA,

intervening parties:

Regione Puglia,

Gruppo di Intervento Giuridico – ODV,

THE COURT (Grand Chamber),

composed of K. Lenaerts, President, L. Bay Larsen, Vice-President, A. Arabadjiev (Rapporteur), A. Prechal, K. Jürimäe, F. Biltgen and N. Piçarra, Presidents of Chambers, S. Rodin, L.S. Rossi, I. Jarukaitis, N. Jääskinen, N. Wahl, J. Passer, D. Gratsias and M.L. Arastey Sahún, Judges,

Advocate General: J. Kokott,

Registrar: C. Di Bella, Administrator,

having regard to the written procedure and further to the hearing on 7 November 2023,

after considering the observations submitted on behalf of:

– C.Z. and Others, by A. Amenduni and M. Rizzo Striano, avvocati,

– Ilva SpA in Amministrazione Straordinaria, by M. Annoni, R.A. Cassano, A. Cogoni, G. Lombardi, M. Merola, L.-D. Tassinari Vittone and C. Tesauro, avvocati,

– Acciaierie d'Italia Holding SpA and Acciaierie d'Italia SpA, by M. Beraldi, E. Gardini, S. Grassi, R. Perini, G.C. Rizza, G. Scassellati Sforzolini, C. Tatozzi, G. Tombesi and L. Torchia, avvocati,

– the Regione Puglia, by A. Bucci and R. Lanza, avvocate,

– Gruppo di Intervento Giuridico – ODV, by C. Colapinto and F. Colapinto, avvocati,

– the Italian Government, by G. Palmieri, acting as Agent, and by S. Fiorentino, avvocato dello Stato,

– the European Commission, by G. Gattinara and C. Valero, acting as Agents,

after hearing the Opinion of the Advocate General at the sitting on 14 December 2023,

gives the following

Judgment

1 This request for a preliminary ruling concerns the interpretation of Directive 2010/75/EU of the European Parliament and of the Council of 24 November 2010 on industrial emissions (integrated pollution prevention and control) (OJ 2010 L 334, p. 17, and corrigendum OJ 2012 L 158, p. 25).

2 The request has been made in proceedings between C.Z. and Others, residents of the municipality of Taranto (Italy) and the adjacent municipalities, on the one hand, and, on the other hand, Ilva SpA in Amministrazione Straordinaria ('Ilva'), a company owning a steel plant located in that municipality ('the Ilva plant'), Acciaierie d'Italia Holding SpA and Acciaierie d'Italia SpA, concerning the pollution caused by that plant's activity and the damage resulting therefrom for human health.

Legal context

European Union law

3 It is apparent from recital 1 of Directive 2010/75 that that directive recast seven directives, including 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), which codified Council Directive 96/61/EC of 24 September 1996 concerning integrated pollution prevention and control (OJ 1996 L 257, p. 26).

4 Recitals 2, 12, 15, 27, 29, 43 and 45 of Directive 2010/75 state:

'(2) In order to prevent, reduce and as far as possible eliminate pollution arising from industrial activities in compliance with the "polluter pays" principle and the principle of pollution prevention, it is necessary to establish a general framework for the control of the main industrial activities, giving priority to intervention at source, ensuring prudent management of natural resources and taking into account, when necessary, the economic situation and specific local characteristics of the place in which the industrial activity is taking place.

…

(12) The permit should include all the measures necessary to achieve a high level of protection of the environment as a whole and to ensure that the installation is operated in accordance with the general principles governing the basic obligations of the operator. The permit should also include emission limit values for polluting substances, or equivalent parameters or technical measures, appropriate requirements to protect the soil and groundwater and monitoring requirements. Permit conditions should be set on the basis of best available techniques [(BAT)].

…

(15) It is important to provide sufficient flexibility to competent authorities to set emission limit values that ensure that, under normal operating conditions, emissions do not exceed the emission levels associated with the [BAT]. … Compliance with the emission limit values that are set in permits results in emissions below those emission limit values.

…

(27) … Members of the public concerned should have access to justice in order to contribute to the protection of the right to live in an environment which is adequate for personal health and well-being.

…

(29) Large combustion plants contribute greatly to emissions of polluting substances into the air resulting in a significant impact on human health and the environment. …

…

(43) In order to provide existing installations with sufficient time to adapt technically to the new requirements of this Directive, some of the new requirements should apply to those installations after a fixed period from the date of application of this Directive. Combustion plants need sufficient time to install the necessary abatement measures to meet the emission limit values set out in Annex V.

…

(45) This Directive respects the fundamental rights and observes the principles recognised in particular by the Charter of Fundamental Rights of the European Union. In particular, this Directive seeks to promote the application of Article 37 of that Charter.'

5 Under Article 1 of that directive, entitled 'Subject matter':

'This Directive lays down rules on integrated prevention and control of pollution arising from industrial activities.

It also lays down rules designed to prevent or, where that is not practicable, to reduce emissions into air, water and land and to prevent the generation of waste, in order to achieve a high level of protection of the environment taken as a whole.'

6 Article 3 of that directive, entitled 'Definitions', provides:

'For the purposes of this Directive the following definitions shall apply:

…

2. "pollution" means the direct or indirect introduction, as a result of human activity, of substances, vibrations, heat or noise into air, water or land which may be harmful to human health or the quality of the environment, result in damage to material property, or impair or interfere with amenities and other legitimate uses of the environment;

3. “installation” means a stationary technical unit within which one or more activities listed in Annex I or in Part 1 of Annex VII are carried out, and any other directly associated activities on the same site which have a technical connection with the activities listed in those Annexes and which could have an effect on emissions and pollution;

…

5. “emission limit value” means the mass, expressed in terms of certain specific parameters, concentration and/or level of an emission, which may not be exceeded during one or more periods of time;

6. “environmental quality standards” means the set of requirements which must be fulfilled at a given time by a given environment or particular part thereof, as set out in Union law;

…

8. “general binding rules” means emission limit values or other conditions, at least at sector level, that are adopted with the intention of being used directly to set permit conditions;

…

10. “[BAT]” means the most effective and advanced stage in the development of activities and their methods of operation which indicates the practical suitability of particular techniques for providing the basis for emission limit values and other permit conditions designed to prevent and, where that is not practicable, to reduce emissions and the impact on the environment as a whole:

(a) “techniques” includes both the technology used and the way in which the installation is designed, built, maintained, operated and decommissioned;

(b) “available techniques” means those developed on a scale which allows implementation in the relevant industrial sector, under economically and technically viable conditions, taking into consideration the costs and advantages, whether or not the techniques are used or produced inside the Member State in question, as long as they are reasonably accessible to the operator;

(c) “best” means most effective in achieving a high general level of protection of the environment as a whole;

…’

7 Article 4 of that directive, entitled ‘Obligation to hold a permit’, provides in paragraph 1 thereof:

‘Member States shall take the necessary measures to ensure that no installation or combustion plant, waste incineration plant or waste co-incineration plant is operated without a permit.

…’

8 Article 5 of Directive 2010/75, entitled ‘Granting of a permit’, provides in paragraph 1 thereof:

‘Without prejudice to other requirements laid down in national or Union law, the competent authority shall grant a permit if the installation complies with the requirements of this Directive.’

9 Article 8 of that directive, entitled ‘Non-compliance’ is worded as follows:

‘1. Member States shall take the necessary measures to ensure that the permit conditions are complied with.

2. In the event of a breach of the permit conditions, Member States shall ensure that:

(a) the operator immediately informs the competent authority;

(b) the operator immediately takes the measures necessary to ensure that compliance is restored within the shortest possible time;

(c) the competent authority requires the operator to take any appropriate complementary measures that the competent authority considers necessary to restore compliance.

Where the breach of the permit conditions poses an immediate danger to human health or threatens to cause an immediate significant adverse effect upon the environment, and until compliance is restored …, the operation of the installation … shall be suspended.'

10 Article 10 of that directive, entitled 'Scope', provides:

'This Chapter shall apply to the activities set out in Annex I and, where applicable, reaching the capacity thresholds set out in that Annex.'

11 Article 11 of that directive, entitled 'General principles governing the basic obligations of the operator', provides:

'Member States shall take the necessary measures to provide that installations are operated in accordance with the following principles:

(a) all the appropriate preventive measures are taken against pollution;

(b) The [BAT] are applied;

(c) no significant pollution is caused;

…'

12 Article 12 of Directive 2010/75, entitled 'Applications for permits', provides in paragraph 1 thereof:

'Member States shall take the necessary measures to ensure that an application for a permit includes a description of the following:

…

(f) the nature and quantities of foreseeable emissions from the installation into each medium as well as identification of significant effects of the emissions on the environment;

…

(i) further measures planned to comply with the general principles of the basic obligations of the operator as provided for in Article 11;

(j) measures planned to monitor emissions into the environment;

…'

13 Under Article 14 of that directive, entitled 'Permit conditions':

'1. Member States shall ensure that the permit includes all measures necessary for compliance with the requirements of Articles 11 and 18.

Those measures shall include at least the following:

(a) emission limit values for polluting substances listed in Annex II, and for other polluting substances, which are likely to be emitted from the installation concerned in significant quantities, having regard to their nature and their potential to transfer pollution from one medium to another;

…

2. For the purpose of paragraph 1(a), emission limit values may be supplemented or replaced by equivalent parameters or technical measures ensuring an equivalent level of environmental protection.

3. BAT conclusions shall be the reference for setting the permit conditions.

4. Without prejudice to Article 18, the competent authority may set stricter permit conditions than those achievable by the use of the [BAT] as described in the BAT conclusions. Member States may establish rules under which the competent authority may set such stricter conditions.

…

6. Where an activity or a type of production process carried out within an installation is not covered by any of the BAT conclusions or where those conclusions do not address all the potential environmental effects of the activity or process, the competent authority shall, after prior consultations with the operator, set the permit conditions on the basis of the [BAT] that it has determined for the activities or processes concerned, by giving special consideration to the criteria listed in Annex III.

…'

14 Article 15 of that directive, entitled 'Emission limit values, equivalent parameters and technical measures', provides, in paragraphs 2 and 3 thereof:

'2. Without prejudice to Article 18, the emission limit values and the equivalent parameters and technical measures referred to in Article 14(1) and (2) shall be based on the [BAT], without prescribing the use of any technique or specific technology.

3. The competent authority shall set emission limit values that ensure that, under normal operating conditions, emissions do not exceed the emission levels associated with the [BAT] as laid down in the decisions on BAT conclusions referred to in Article 13(5) through either of the following:

(a) setting emission limit values that do not exceed the emission levels associated with the [BAT]. Those emission limit values shall be expressed for the same or shorter periods of time and under the same reference conditions as those emission levels associated with the [BAT]; or

(b) setting different emission limit values than those referred to under point (a) in terms of values, periods of time and reference conditions.

Where point (b) is applied, the competent authority shall, at least annually, assess the results of emission monitoring in order to ensure that emissions under normal operating conditions have not exceeded the emission levels associated with the [BAT].'

15 Article 18 of that directive, entitled 'Environmental quality standards', is worded as follows:

'Where an environmental quality standard requires stricter conditions than those achievable by the use of the [BAT], additional measures shall be included in the permit, without prejudice to other measures which may be taken to comply with environmental quality standards.'

16 Article 21 of Directive 2010/75, entitled 'Reconsideration and updating of permit conditions by the competent authority', provides:

'1. Member States shall take the necessary measures to ensure that the competent authority periodically reconsiders in accordance with paragraphs 2 to 5 all permit conditions and, where necessary to ensure compliance with this Directive, updates those conditions.

2. At the request of the competent authority, the operator shall submit all the information necessary for the purpose of reconsidering the permit conditions, including, in particular, results of emission monitoring and other data, that enables a comparison of the operation of the installation with the [BAT] described in the applicable BAT conclusions and with the emission levels associated with the [BAT].

When reconsidering permit conditions, the competent authority shall use any information resulting from monitoring or inspections.

3. Within 4 years of publication of decisions on BAT conclusions in accordance with Article 13(5) relating to the main activity of an installation, the competent authority shall ensure that:

(a) all the permit conditions for the installation concerned are reconsidered and, if necessary, updated to ensure compliance with this Directive, in particular, with Article 15(3) and (4), where applicable;

(b) the installation complies with those permit conditions.

…

5. The permit conditions shall be reconsidered and, where necessary, updated at least in the following cases:

(a) the pollution caused by the installation is of such significance that the existing emission limit values of the permit need to be revised or new such values need to be included in the permit;

(b) the operational safety requires other techniques to be used;

(c) where it is necessary to comply with a new or revised environmental quality standard in accordance with Article 18.'

17 Article 23 of that Directive, entitled 'Environmental inspections', provides, in the fourth subparagraph of paragraph 4 thereof, point (a):

'The systematic appraisal of the environmental risks shall be based on at least the following criteria:

(a) the potential and actual impacts of the installations concerned on human health and the environment taking into account the levels and types of emissions, the sensitivity of the local environment and the risk of accidents'.

18 Article 80 of that directive, entitled 'Transposition', provides, in paragraph 1 thereof:

'Member States shall bring into force the laws, regulations and administrative provisions necessary … by 7 January 2013.

They shall apply those measures from that same date.

…'

19 Article 82 of that directive, entitled 'Transitional provisions', provides in paragraph 1 thereof:

'In relation to installations carrying out activities referred to in Annex I … Member States shall apply the laws, regulations and administrative provisions adopted in accordance with Article 80(1) from 7 January 2014 with the exception of Chapter III and Annex V.'

Italian law

Legislative Decree No 152/2006

20 Decreto legislativo n. 152 – Norme in materia ambientale (Legislative Decree No 152 on Environmental rules), of 3 April 2006 (Ordinary Supplement to GURI No 88, of 14 April 2006), in the version thereof applicable to the dispute in the main proceedings ('Legislative Decree No 152/2006') regulates industrial and manufacturing activities, including steel-making, and its objective is to protect the environment and human health against the pollution resulting therefrom. That legislative decree implements Directive 2010/75.

21 Article 5(1) of that legislative decree provides that a Health Impact Assessment is 'prepared by the project applicant on the basis of the guidelines issued by the Ministry of Health …, assessing all the direct and indirect impacts which the creation and operation of the project could have on human health'. That article defines 'environmental impacts' as corresponding, inter alia, to 'the significant direct and indirect effects of a plan, programme or project', in particular, on 'population and human health'. It defines 'pollution' as, inter alia, 'the direct or indirect introduction into air, water or land, as a result of human activity, of substances, vibrations, heat or noise or, more generally, physical or chemical agents which could be harmful to human health'.

22 Under Article 19 of that legislative decree, relating to the environmental impact assessment (EIA) procedure, the characteristics of projects must be evaluated with account being taken of the risk to human health, including for the purposes of an *ex officio* verification of further significant environmental impacts in addition to those mentioned by the permit applicant, and of any observations received during the course of the procedure and of any other assessments carried out pursuant to the rules in force.

23 Article 22 of Legislative Decree No 152/2006, relating to the Environmental Impact Study, provides that the permit applicant must prepare that study by describing, inter alia, any significant effects the project is likely to have on the environment, and the measures designed to avoid, prevent, reduce or offset the project's likely adverse environmental impacts, with a programme for the monitoring of potential significant adverse environmental impacts resulting from the creation and operation of the project.

24 In accordance with Article 23(2) of that legislative decree, to obtain the EIA, which is a pre-requisite for obtaining an Integrated Environmental Permit, the applicant seeking a permit for certain specific projects must also submit a Health Impact Assessment, that is to say the specific instrument evaluating the impact of the activities likely to be authorised on human health.

25 According to Article 29 quater(7) of that legislative decree, the mayor concerned has the power to require a reconsideration of the Integrated Environmental Permit on public health grounds.

26 Article 29 decies of that legislative decree concerns the obligations on the operator concerned in terms of monitoring and data transmission and the checks and controls regarding compliance with those obligations and the conditions for the Integrated Environmental Permit.

The special rules applicable to Ilva

27 In July 2012, the Tribunale di Taranto (District Court, Taranto, Italy) ordered the provisional seizure, without any residual right of use, of the equipment of the 'hot zone' of the Ilva plant and all Ilva's materials. By a decree of 26 October 2012, on the 2012 Integrated Environmental Permit, the Ministro dell'ambiente e della tutela del territorio e del mare (Minister for the Environment and the Protection of the Land and Sea, Italy) reconsidered the Integrated Environmental Permit granted to Ilva on 4 August 2011. Continuity of production was ensured under special derogatory rules.

28 Decreto-legge n. 207, convertito con modificazioni dalla legge 24 dicembre 2012, n. 231 – Disposizioni urgenti a tutela della salute, dell'ambiente e dei livelli di occupazione, in caso di crisi di stabilimenti industriali di interesse strategico nazionale (Decree-Law No 207, converted into law, with amendments, by Law No 231 of 24 December 2012, on urgent measures to protect the health, environment and the level of

employment during a crisis in industrial installations of national strategic interest), of 3 December 2012 (GURI No 282, of 3 December 2012, p. 4), in the version applicable to the dispute in the main proceedings ('Decree-Law No 207/2012'), introduced, in Article 1(1) thereof, the concept of 'plant or facility of strategic national importance', providing that, where it is absolutely imperative to protect employment and production, the Minister for the Environment and the Protection of the Land and Sea may, when the Integrated Environmental Permit is reconsidered, authorise the continuation of the activity in question for 36 months, on condition that the terms and conditions imposed in the decision reconsidering the Integrated Environmental Permit concerned are complied with, even where the judicial authority has seized the undertaking's assets without prejudice to the carrying on of that undertaking's business activity. Under that provision, the Ilva plant was deemed to constitute such a plant or facility of strategic national importance. Consequently, Ilva was authorised to continue its production activity in that plant and to sell its goods until 3 December 2015.

29 Decreto-legge n. 61, convertito con modificazioni dalla legge 3 agosto 2013, n. 89 – Nuove disposizioni urgenti a tutela dell'ambiente, della salute e del lavoro nell'esercizio di imprese di interesse strategico nazionale (Decree-Law No 61, converted into law, with amendments, by Law No 89 of 3 August 2013, on new urgent measures to protect the environment, health and employment in undertakings of strategic national importance), of 4 June 2013 (GURI No 129, of 4 June 2013, p. 1), in the version applicable to the dispute in the main proceedings ('Decree-Law No 61/2013'), provides, in Article 1(1) thereof, for the possibility of placing under a 'special administrators'' regime, namely that of provisional administrators designated by the government, any undertaking which meets certain criteria in terms of size and which operates at least one plant or facility of strategic national importance where 'the production activity has caused and is causing, objectively, serious and significant threats to the integrity of the environment and health as a result of repeated failures to comply with the Integrated Environmental Permit'. According to Article 2(1) of Decree-Law No 61/2013, the conditions for application of the special arrangements provided for in Article 1(1) of that decree-law were met in Ilva's case.

30 Under Article 1(5) of that decree-law, a committee of three experts was to draw up a 'plan of environmental protection and health protection measures which specifies the actions and timeframes necessary for ensuring compliance with the law and with the Integrated Environmental Permit', whose approval 'equates to amendment of the Integrated Environmental Permit'. In addition, in accordance with Article 1(7) of that decree-law, the measures prescribed by the Integrated Environmental Permit were to be completed within '36 months of the date of entry into force of the law converting [that decree-law]', that is before 3 August 2016.

31 The decreto del Presidente del Consiglio dei Ministri –Approvazione del piano delle misure e delle attività di tutela ambientale e sanitaria, a norma dell'articolo 1, commi 5 e 7, del decreto-legge 4 giugno 2013, n. 61, convertito, con modificazioni, dalla legge 3 agosto 2013, n. 89 (Decree of the President of the Council of Ministers approving the plan of environmental protection and health protection measures and activities in accordance with Article 1(5) and (7) of Decree-Law No 61 of 4 June 2013, converted into law, with amendments, by Law No 89 of 3 August 2013), of 14 March 2014 (GURI No 105, of 8 May 2014, p. 34) ('the 2014 Decree of the President of the Council of Ministers'), rescheduled the deadlines initially set for implementing the environmental clean-up measures provided for by the 2011 Integrated Environmental Permit and the 2012 Integrated Environmental Permit.

32 Article 2(5) of decreto-legge n. 1, convertito con modificazioni dalla legge 4 marzo 2015, n. 20 – Disposizioni urgenti per l'esercizio di imprese di interesse strategico nazionale in crisi e per lo sviluppo della città e dell'area di Taranto (Decree-Law No 1, converted into law, with amendments, by Law No 20 of 4 March 2015, on urgent measures for operating an undertaking of strategic national importance in difficulty and for the development of the city and area of Taranto), of 5 January 2015 (GURI No 3, of 5 January 2015, p. 1), provides that the plan of environmental protection and health protection measures

and activities approved by the 2014 Decree of the President of the Council of Ministers will be 'deemed to have been implemented if, by 31 July 2015, at least 80% of the requirements having a deadline on or before that date have been met'. Furthermore, the final deadline for the implementation of the remaining requirements was to expire on 3 August 2016, that date having subsequently been extended to 30 September 2017.

33 Decreto-legge n. 98, convertito con modificazioni dalla legge 1 agosto 2016, n. 151 – Disposizioni urgenti per il completamento della procedura di cessione dei complessi aziendali del Gruppo Ilva (Decree-Law No 98, converted into law, with amendments, by Law No 151 of 1 August 2016, on urgent measures to complete the transfer of the businesses of the Ilva group), of 9 June 2016 (GURI No 133, of 9 June 2016, p. 1), inter alia, provided for the adoption of a new Decree of the President of the Council of Ministers, which was to be regarded as constituting an Integrated Environmental Permit, which replaces the EIA.

34 Decreto-legge n. 244, convertito con modificazioni dalla legge 27 febbraio 2017, n. 19 – Proroga e definizione di termini (Decree-Law No 244, converted into law, with amendments, by Law No 19 of 27 February 2017, extending and setting out deadlines), of 30 December 2016 (GURI No 304, of 30 December 2016, p. 13), definitively extended the deadline set for implementing the specific environmental clean-up measures to 23 August 2023.

35 The environmental and health protection measures and actions provided for in Decree-Law No 98 of 9 June 2016 were adopted by the decreto del Presidente del Consiglio dei Ministri– Approvazione delle modifiche al Piano delle misure e delle attività di tutela ambientale e sanitaria di cui al decreto del Presidente del Consiglio dei ministri 14 marzo 2014, a norma dell'articolo 1, comma 8.1., del decreto-legge 4 dicembre 2015, n. 191, convertito, con modificazioni, dalla legge 1 febbraio 2016, n. 13 (Decree of the President of the Council of Ministers approving the modifications to the plan of environmental protection and health protection measures and activities set out in the Decree of the President of the Council of Ministers of 14 March 2014 in accordance with Article 1(8.1) of Decree-Law No 191 of 4 December 2015, converted into law, with amendments, by Law No 13 of 1 February 2016), of 29 September 2017 (GURI No 229 of 30 September 2017, p. 1) ('the 2017 Decree of the President of the Council of Ministers'), which constitutes the 2017 Integrated Environmental Permit and which brings to an end all the Integrated Environmental Permit procedures ongoing before the Ministry of the Environment and the Protection of the Land and Sea. That 2017 Integrated Environmental Permit confirmed the extension of the deadline mentioned in the previous paragraph.

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

36 The applicants in the main proceedings have brought a collective action before the Tribunale di Milano (District Court, Milan, Italy), which is the referring court, seeking to protect the homogenous rights of approximately 300 000 inhabitants of the municipality of Taranto and the adjacent municipalities. They claim that the activities of the Ilva plant seriously impinge on those rights.

37 By that action, the applicants in the main proceedings seek protection of their right to health, their right to peace and tranquillity in the conduct of their lives and their right to the climate. They claim that the infringement of those rights is current and long-term, due to intentional conduct leading to pollution generated by the emissions from the Ilva plant, which exposes those inhabitants to a higher death-rate and a higher rate of illness. The territories of the municipalities concerned are classified as a 'site of national importance' on account of the serious pollution of the environmental matrices consisting of water, air and land.

38 The applicants in the main proceedings base their claims on the Assessments of Adverse Effects on Health drawn up in 2017, 2018 and 2021, which establish the existence of a causal link between the alteration of the health of the inhabitants of the Taranto region and the Ilva plant's emissions, particularly

so far as concerns PM10 particulate matter, with a diameter less than or equal to ten micrometres, and sulphur dioxide (SO2) of industrial origin. They also rely on the 'Report of the Special Rapporteur on the issue of human rights obligations relating to the enjoyment of a safe, clean, healthy and sustainable environment' of the Human Rights Council of the United Nations, of 12 January 2022, in which the agglomeration of Taranto is listed as a 'sacrifice zone', namely a zone characterised by extreme levels of pollution and contamination by toxic substances in which vulnerable and marginalised groups bear a disproportionate burden of the health, human rights and environmental consequences as a result of exposure to pollution and hazardous substances.

39 The applicants in the main proceedings have also criticised the extension of the 36-month deadline provided for by Decree-Law No 207/2012 for the purposes of the implementation of the 2012 Integrated Environmental Permit. They requested the referring court, in particular, to order the closure of the 'hot zone' of the Ilva plant or the cessation of the corresponding activities. In the alternative, they requested that the defendants in the main proceedings be ordered to close the coke-producing plant or to cease the corresponding activities and, in the further alternative, that those defendants be ordered to cease the production activity of that 'hot zone' until the complete implementation of the requirements set out in the environmental plan provided for by the 2017 Integrated Environmental Permit. Lastly, they requested that court to order, in any event, the defendants in the main proceedings to produce a business plan providing for the elimination of at least 50% of the greenhouse gas emissions in relation to the emissions resulting from a production of six million tons of steel per year between the date of their request and 2026, or to take the appropriate measures to eliminate or reduce the effects of the infringements found.

40 The referring court states, in the first place, that Italian law does not provide that the Assessment of Adverse Effects on Health is to be an integral part of the procedure for the grant or reconsideration of the Integrated Environmental Permit. Nor is it provided that, where such an assessment shows results demonstrating an unacceptable health risk for a significant population affected by the polluting emissions, that permit must be reconsidered at short notice and conclusively. In essence, that law, it is argued, provides for an *ex post* Assessment of Adverse Effects on Health, with which the reconsideration of the Integrated Environmental Permit is only potentially linked. The national legislation at issue in the main proceedings might thus contravene Directive 2010/75, read in the light of the precautionary principle.

41 In the second place, the referring court points out that, by an act of 21 May 2019, the mayor of Taranto requested, under Legislative Decree No 152/2006, the reconsideration of the 2017 Integrated Environmental Permit, essentially on the basis of reports drawn up by the competent health protection authorities which showed that there was an unacceptable health risk for the population. In May 2019, the Minister for the Environment and the Protection of the Land and Sea ordered reconsideration of that permit. It is apparent from the investigation carried out by those authorities that the monitoring of emissions from the Ilva plant had to take into account at least all the pollutants dealt with in the Final Report Assessing the Adverse Effects on Health, drawn up in 2018 for the Taranto region, and other pollutants such as copper, mercury and naphthalene, from diffuse sources in that plant, as well as PM2.5 and PM10 particulate matter from diffuse sources and channelled releases. This was a 'Supplemental Set' of polluting substances which potentially caused detrimental effects on human health. The special rules applicable to Ilva however enabled the Integrated Environmental Permit granted to that undertaking to be reconsidered without the pollutants mentioned in that Supplemental Set and their harmful effects on the population of Taranto having to be taken into account.

42 In the third place, the referring court observes that at least 80% of the requirements of the 2012 Integrated Environmental Permit and the plan of environmental protection and health protection measures and activities approved by the 2014 Decree of the President of the Council of Ministers initially were to be complied with by 31 July 2015 at the latest. However, that cut-off date has been deferred by more than seven and a half years, which corresponds to a postponement of 11 years since the date of the penal

seizure at the origin of the adoption of the special rules applicable to Ilva, set out in paragraphs 27 to 35 of the present judgment. That postponement took place, first, where there was an industrial operation regarded by the Italian legislature itself as posing a serious risk to human health and the environment and, secondly, in the aim of carrying out and completing works which were theoretically to render Ilva's steelworks activities safe for the health of the persons living close to the plant.

43 In those circumstances, the Tribunale di Milano (District Court, Milan) decided to stay the proceedings and to refer the following questions to the Court of Justice for a preliminary ruling:

'(1) May Directive [2010/75], in particular recitals 4, 18, 34, 28 and 29 and [Article] 3(2), [and Articles] 11, 12 and 23 thereof, together with the precautionary principle and the principle of the protection of human health referred to in Article 191 TFEU …, be interpreted as meaning that a Member State may, on the basis of a national law, provide that the Assessment of Adverse Effects on Health … is an act falling outside the scope of the procedure for the grant and [reconsideration] of the Integrated Environmental Permit … – in this instance [the 2017 Decree of the President of the Council of Ministers] – and that the drawing up of [that assessment] need not have any automatic consequences in terms of its timely and proper consideration by the competent authority in the context of an [Integrated Environmental Permit]/[Decree of the President of the Council of Ministers] [reconsideration] procedure, especially where [that assessment] indicates an unacceptable health risk for a significant population affected by the polluting emissions, or may that directive rather be interpreted as meaning that:

(i) the tolerable risk to human health may be assessed by means of a scientific, epidemiological analysis;

(ii) the [Assessment of Adverse Effects on Health] must be an act coming within the scope of the [Integrated Environmental Permit]/[Decree of the President of the Council of Ministers] grant and [reconsideration] procedure, and indeed a necessary prerequisite of that procedure and one demanding mandatory, proper and timely consideration by the authority having competence to grant and [reconsider] the [Integrated Environmental Permit]?

2. May [Directive 2010/75], in particular, recitals 4, [15], 18, 21, 34, 28 and 29 and [Article] 3(2) [and Articles] 11, 14, 15, 18 and 21 thereof, be interpreted as meaning that, on the basis of a national law, a Member State must provide that the Integrated Environmental Permit (in this instance, [the 2012 Integrated Environmental Permit], [the 2014 Decree of the President of the Council of Ministers], [the 2017 Decree of the President of the Council of Ministers]) must always take into account all the emitted substances which have been scientifically shown to be harmful, including fractions of PM10 and PM2.5, and which originate from the plant under assessment, or may that directive be interpreted as meaning that the Integrated Environmental Permit (the administrative decision granting authorisation) need cover only polluting substances identified in advance by reference to the nature and type of industrial activity being carried on?

(3) May Directive [2010/75], in particular recitals 4, 18, 21, 22, 28, 29, 34 and 43 and [Article 3(2) and (25)] [and Articles] 11, 14, 16 and 21 thereof, be interpreted as meaning that, on the basis of a national law, a Member State may, where an industrial activity is creating a serious and significant threat to the integrity of the environment and human health, extend the period within which the operator must bring the industrial activity into line with the permit granted, by carrying out the environmental protection and health protection measures and actions provided for therein, by approximately seven and a half years from the deadline initially set, giving a total period of [11] years?'

Admissibility of the request for a preliminary ruling

44 The defendants in the main proceedings take the view that the request for a preliminary ruling is inadmissible on three grounds.

45 In the first place, they claim that that request does not meet the requirements laid down in Article 94(b) and (c) of the Rules of Procedure of the Court of Justice. The referring court does not sufficiently describe the factual and legislative context of the questions referred for a preliminary ruling and does not set out the reasons that led it to have doubts as to the interpretation of the provisions of EU law which those questions concern.

46 In that regard, it should be noted that, according to settled case-law, in the context of the cooperation between the Court of Justice and the national courts provided for in Article 267 TFEU, it is solely for the national court before which a 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 of Justice. Consequently, where the questions submitted concern the interpretation of EU law, the Court of Justice is, in principle, bound to give a ruling (judgment of 21 December 2023, *Infraestruturas de Portugal and Futrifer Indústrias Ferroviárias*, C-66/22, EU:C:2023:1016, paragraph 33 and the case-law cited).

47 It follows that questions relating to EU law enjoy a presumption of relevance. The Court may refuse to rule on a question referred by a national court for a preliminary ruling only where it is quite obvious that the interpretation of EU 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 (judgment of 7 April 2022, *Avio Lucos*, C-116/20, EU:C:2022:273, paragraph 38 and the case-law cited).

48 Moreover, under Article 94(a) to (c) of the Rules of Procedure, it is essential that the national court should, in its request for a preliminary ruling, expand on its definition of the factual and legislative context of the dispute in the main proceedings and give the necessary explanation of the reasons for the choice of the provisions of EU law which it seeks to have interpreted and of the link it establishes between those provisions and the national law applicable to the proceedings pending before it. Those cumulative requirements concerning the content of a request for a preliminary ruling are also recalled in paragraphs 13, 15 and 16 of the Recommendations of the Court of Justice of the European Union to national courts and tribunals in relation to the initiation of preliminary ruling proceedings (OJ 2019 C 380, p. 1) (judgment of 16 November 2023, *Ministerstvo vnútra Slovenskej republiky*, C-283/22, EU:C:2023:886, paragraph 19 and the case-law cited).

49 In the present case, it is clear from the request for a preliminary ruling that the referring court takes the view that the questions it has referred are relevant for the purposes of assessing the merits of the applications brought before it by the applicants in the main proceedings. It expressly states in that request, first, that it wishes to ascertain whether certain specific obligations follow from EU law in the context of the case in the main proceedings and, secondly, that the interpretation of EU law provided by the Court will have a decisive influence on the assessment of the lawfulness of the Ilva plant's industrial activity. Consequently, the purpose of the dispute in the main proceedings is set out in sufficient detail in that request for a preliminary ruling, which moreover contains all the information required to enable the Court to give a useful answer to those questions.

50 Furthermore, the referring court identified, in its request for a preliminary ruling, the applicable provisions of EU law and the reasons which led it to raise the issue of the interpretation of those provisions. In addition, it is apparent from that request that the interpretation of those provisions has a connection with the purpose of the dispute in the main proceedings, since that interpretation is likely to have an effect on the outcome of that dispute.

51 The first ground of inadmissibility raised by the defendants in the main proceedings must therefore be rejected.

52 In the second place, the defendants in the main proceedings argue that the finding that the new deadline to ensure that the Ilva plant complies with the national health and environmental protection measures is compatible with Directive 2010/75 has acquired the force of *res judicata* following the opinion of the Consiglio di Stato (Council of State, Italy), whose assessment may not be called into question by the referring court.

53 In this connection, attention should be drawn to the importance, both in the legal order of the European Union and in national legal systems, of the principle of *res judicata*. Accordingly, EU law also does not require a national judicial body automatically to go back on a judgment having the force of *res judicata* in order to take into account the interpretation of a relevant provision of EU law adopted by the Court (see, to that effect, judgment of 7 April 2022, *Avio Lucos*, C-116/20, EU:C:2022:273, paragraphs 92 and 94 and the case-law cited).

54 However, that principle cannot lead, as such, to a finding that the present request for a preliminary ruling is inadmissible. The Court has thus held that a national court cannot validly claim that it is impossible for it to interpret a provision of national law in a manner that is consistent with EU law merely because that provision has been interpreted by other courts in a manner that proves to be incompatible with EU law (see, to that effect, judgment of 7 April 2022, *Avio Lucos*, C-116/20, EU:C:2022:273, paragraphs 97 to 104).

55 Consequently, the second ground of inadmissibility raised by the defendants in the main proceedings must also be rejected.

56 In the third place, the defendants in the main proceedings argue that, according to national procedural law, in a case between private parties, an ordinary law court can only disapply an administrative act if the infringement of the law relied on by one of the parties is not linked to the assessment whether that act is lawful. In the present case, the alleged infringement is linked to such an assessment. In addition, even if the Court were to interpret Directive 2010/75 as meaning that an assessment of the effects on health of a plant's activity must be carried out before a permit to operate that plant is granted or during the reconsideration of that permit, it is for the national legislature to adopt an implementing measure in order to define the content of that assessment.

57 In that regard, it must be observed, as it was, in essence, by the Advocate General in point 62 of her Opinion, that the fact that the case pending before the referring court is between persons governed by private law is not such as to lead, in itself to the inadmissibility of the request for a preliminary ruling (see, to that effect, judgment of 8 May 2019, *Praxair MRC*, C-486/18, EU:C:2019:379, paragraph 35).

58 Secondly, it is true that, under the third paragraph of Article 288 TFEU, the binding nature of a directive, which constitutes the basis for the possibility of relying on it, exists only in relation to 'each Member State to which it is addressed'. It follows, according to settled case-law, that a directive cannot of itself impose obligations on an individual and cannot therefore be relied on as such against such a person before a national court (judgment of 22 December 2022, *Sambre & Biesme and Commune de Farciennes*, C-383/21 and C-384/21, EU:C:2022:1022, paragraph 36 and the case-law cited).

59 However, it must be recalled that, where a person is able to rely on a directive not as against an individual, but as against a Member State, he or she may do so regardless of the capacity in which the latter is acting. It is necessary to prevent the Member State from taking advantage of its own failure to comply with EU law (judgment of 22 December 2022, *Sambre & Biesme and Commune de Farciennes*, C-383/21 and C-384/21, EU:C:2022:1022, paragraph 37 and the case-law cited).

60 In that regard, under the case-law recalled in the previous paragraph of the present judgment, organisations or bodies, even ones governed by private law, which are subject to the authority or control of a public body, or to which a Member State has delegated the performance of a task in the public interest

and which possess for that purpose special powers beyond those which result from the normal rules applicable to relations between individuals must be treated as a Member State and as the organs of its administration (judgment of 22 December 2022, *Sambre & Biesme and Commune de Farciennes*, C-383/21 and C-384/21, EU:C:2022:1022, paragraph 38 and the case-law cited).

61 In the present case, it is apparent from the request for a preliminary ruling that Decree-Law No 207/2012 provides, in Article 1(1) thereof, that '[the Ilva plant] constitutes a plant or facility of strategic national importance'.

62 It is also apparent from that request that Decree-Law No 61/2013 provides, in Article 1(1) thereof, for the possibility of placing under a 'special administrators'' regime, any undertaking which meets certain criteria in terms of size and which operates at least one plant or facility of strategic national importance where 'the production activity has caused and is causing, objectively, serious and significant threats to the integrity of the environment and health as a result of repeated failures to comply with the Integrated Environmental Permit'. The referring court adds that, under Article 2(1) of that decree-law, the conditions for application of the special arrangements provided for in Article 1(1) of that decree-law were met in Ilva's case.

63 It must lastly be observed that, in the case pending before the referring court, the applicants in the main proceedings take issue with a series of special rules adopted by the national authorities with respect to Ilva which, in terms both of their subject matter and their nature as a *lex specialis* in relation to Legislative-Decree No 152/2006, must be regarded as falling within the scope of Directive 2010/75.

64 Consequently, the third ground of inadmissibility raised by the defendants in the main proceedings must also be rejected.

65 Having regard to the foregoing, the questions referred for a preliminary ruling are admissible.

Consideration of the questions referred

The first question

66 By its first question, the referring court asks, in essence, whether Directive 2010/75, read in the light of Article 191 TFEU, must be interpreted as meaning that the Member States are required to impose a prior assessment of the effects of the activity of the installation concerned on the environment and on human health as an integral part of the procedures for granting or reconsidering a permit to operate such an installation under the directive.

67 It must be noted at the outset that Directive 2010/75 was adopted on the basis of Article 192(1) TFEU on actions to be taken by the European Union in the environmental field in order to achieve the objectives referred to in Article 191 TFEU. The latter article provides, in the first and second indents of paragraph 1 thereof, that EU policy on the environment is to contribute to pursuit of the objectives of preserving, protecting and improving the quality of the environment and protecting human health. Under Article 191(2) of that treaty, EU policy on the environment is to aim at a high level of protection taking into account the diversity of situations in the various regions of the European Union.

68 It follows from those provisions that the protection and improvement of the quality of the environment and the protection of human health are two closely linked components of EU policy on the environment, of which Directive 2010/75 forms part.

69 As is apparent from the first paragraph of Article 1 of that directive, its objectives are the integrated prevention and control of pollution arising from industrial activities. In accordance with the second paragraph of Article 1 thereof, read in the light of recital 12 thereof, it also aims to prevent or, where that is

not practicable, to reduce emissions into air, water and land and to prevent the generation of waste, in order to achieve a high level of protection of the environment taken 'as a whole.'

70 The rules established by Directive 2010/75 thus put into concrete terms the European Union's obligations on the protection of the environment and human health which stem, inter alia, from Article 191(1) and (2) TFEU.

71 In this connection, first, Article 35 of the Charter of Fundamental Rights of the European Union ('the Charter') provides that a high level of human health protection is to be ensured in the definition and implementation of all the European Union's policies and activities. Secondly, in accordance with Article 37 of the Charter, a high level of environmental protection and the improvement of the quality of the environment must be integrated into the policies of the European Union and ensured in accordance with the principle of sustainable development.

72 Having regard to the close link between the protection of the environment and that of human health, Directive 2010/75 seeks to promote not only the application of Article 37 of the Charter, as stated in recital 45 of that directive, but also the application of Article 35 of the Charter, it not being possible to achieve a high level of protection of human health without a high level of environmental protection, in accordance with the principle of sustainable development. Directive 2010/75 thus contributes to protecting the right to live in an environment which is adequate for personal health and well-being, as referred to in recital 27 thereof.

73 As regards, in the first place, the provisions of Directive 2010/75 which concern the procedures for granting a permit, Article 4 of that directive provides, in the first subparagraph of paragraph 1 thereof, that Member States are to take the necessary measures to ensure that no installation or combustion plant, waste incineration plant or waste co-incineration plant is operated without a permit.

74 The concept of 'installation', which is defined in Article 3(3) of Directive 2010/75, designates, inter alia, a stationary technical unit within which one or more activities listed in Annex I to that directive or in Part 1 of Annex VII thereto are carried out, and any other directly associated activities on the same site which have a technical connection with the activities listed in those annexes and which could have an effect on emissions and pollution. Annex I to that directive concerns, inter alia, the activities of the production and processing of metals.

75 It follows from this that, under Article 4 of Directive 2010/75, read in conjunction with Article 3(3) thereof, the activities of the production and processing of metals which reaches the capacity thresholds stated in Annex I thereto are included in the activities for which a permit is required.

76 Consequently, a plant such as the Ilva plant, in respect of which it is common ground that it must be considered an installation within the meaning of Article 3(3) of Directive 2010/75 and which reaches those capacity thresholds, cannot be operated without such a permit.

77 The grant of a permit by the competent authority is, under Article 5(1) of Directive 2010/75, conditional on compliance with the requirements of that directive.

78 In accordance with Article 10 of Directive 2010/75, an installation such as that at issue in the main proceedings falls within the scope of Chapter II thereof, of which Articles 11 to 27 of that directive form part, which lay down the requirements for that type of installation.

79 Under Article 12(1)(i) of Directive 2010/75, the Member States are to take the necessary measures to ensure that an application for a permit includes a description of the measures provided for to comply with the general principles of the basic obligations of the operator, as provided for in Article 11 of that directive.

80 Under Article 11(a) of that directive, the operator of an installation must take all the appropriate preventive measures against ‘pollution’.

81 Article 11(b) of Directive 2010/75 provides that the Member States are to take the necessary measures to ensure that, in the operation of an installation, the BAT are applied. In this connection, it must be observed that Article 3(10) of that directive defines the concept of ‘[BAT]’ as the most effective and advanced stage in the development of activities and their methods of operation which indicates the practical suitability of particular techniques for providing the basis for emission limit values and other permit conditions designed to prevent and, where that is not practicable, to reduce emissions and the impact on the environment ‘as a whole’.

82 Under Article 11(c) of Directive 2010/75, the operator of an installation is required to ensure that no significant ‘pollution’ is caused.

83 Article 12(1)(f) of Directive 2010/75 provides that the application for a permit must include a description of the nature and quantities of foreseeable emissions from the installation into each medium as well as identification of significant effects of the emissions on the environment. Article 12(1)(j) of that directive, for its part, requires that the application for a permit must include a description of the measures planned to monitor emissions into ‘the environment’.

84 In that regard, Article 14 of Directive 2010/75, relating to permit conditions, refers, in paragraph 1(a) thereof, to emission limit values for polluting substances listed in Annex II thereto, and for other polluting substances, which are likely to be emitted from the installation concerned in significant quantities, having regard to their nature and their potential to transfer ‘pollution’ from one medium to another.

85 So far as concerns, in the second place, the reconsideration of a permit, Article 21(5)(a) of Directive 2010/75 provides, inter alia, that those conditions are to be reconsidered where the ‘pollution’ caused by the installation concerned is of such significance that the existing emission limit values of the permit to operate that installation need to be revised or new such values need to be included in the permit.

86 As the European Commission submitted, the frequency of the reconsideration of the permit at issue must be adapted to the extent and nature of the installation. It is apparent from recital 2 of Directive 2010/75 that it is necessary to take into account the specific local characteristics of the place in which industrial activity is taking place. That is, in particular, the case where the latter is located close to dwellings.

87 It must be stated that the provisions which concern the procedures for the grant or reconsideration of a permit, with which paragraphs 80, 82, 84 and 85 of the present judgment are concerned, all make reference to the concept of ‘pollution’.

88 That concept is defined, in Article 3(2) of Directive 2010/75, as covering, inter alia, the introduction of substances into air, water or land which may be harmful to human health or the quality of the environment (see, to that effect, judgment of 9 March 2023, *Sdruzhenie ‘Za Zemyata – dostap do pravosadie’ and Others*, C-375/21, EU:C:2023:173, paragraph 48).

89 It follows from this that, for the purposes of the application of Directive 2010/75, that concept includes the harm caused, or which may be caused, both to the environment and to human health.

90 That broad definition confirms the close link, highlighted in paragraphs 67 to 72 above, which there is, in particular in the context of that directive, between the protection of the quality of the environment and the protection of human health.

91 That interpretation of Directive 2010/75 is borne out by the second subparagraph of Article 8(2) thereof, which provides that, where a failure to comply with the permit conditions poses an ‘immediate

danger to human health' or threatens to cause an immediate significant adverse effect upon the environment, the operation of the installation concerned is to be suspended until compliance is restored.

92 It is also confirmed by Article 23(4), fourth subparagraph, point (a) of that directive, which, in respect of environmental inspections, expressly states that the systematic appraisal of the environmental risks must be based, inter alia, on the potential and actual impacts of the installations concerned on human health and the environment.

93 The foregoing analysis furthermore joins that of the European Court of Human Rights, which, as regards specifically the pollution linked to operation of the Ilva plant, relied, in order to find that there was a violation of Article 8 of the European Convention for the Protection of Human Rights and Fundamental Freedoms, signed in Rome on 4 November 1950, on scientific studies describing the polluting effects of the emissions of that plant both on the environment and on human health (ECtHR, 24 January 2019, *Cordella and Others* v. *Italy*, CE:ECHR:2019:0124JUD005441413, §§ 163 and 172).

94 It is apparent from the foregoing considerations that, contrary to what the Italian Government submits, the operator of an installation falling within the scope of Directive 2010/75 must, in its permit application, inter alia, provide adequate information concerning the emissions from its installation and must also, throughout that installation's period of operation, ensure compliance with that operator's basic obligations under that directive and compliance with the measures provided for in that regard, by a continuous assessment of the effects of the activities of that installation on the environment and on human health.

95 Similarly, it is for the Member States and their competent authorities to provide that such an assessment is an integral part of the procedures for granting and reconsidering a permit.

96 In the case in the main proceedings, the referring court notes that the relevant national provisions provide for an *ex post* assessment of the impact of the industrial activities at issue on human health, with which reconsideration of the environmental permit is only potentially linked.

97 It points out in particular that, under Article 1 bis(1) of Decree-Law No 207/2012, in every area affected by a plant or facility of strategic national importance, such as the Ilva plant, the territorially competent health protection authorities are to 'draw up jointly, and update at least once a year, a Report Assessing the Adverse Effects on Health, including on the basis of the regional cancer registers and the epidemiological maps of the principal illnesses associated with environmental factors'.

98 The national court states, however, that, under the special rules applicable to Ilva, it is not provided that that assessment of adverse effects on health is a prerequisite for the grant of an Integrated Environmental Permit, or that it forms an integral part of the procedures for granting or reconsidering that permit.

99 The Assessment of Adverse Effects on Health referred to in Article 1 bis(1) of Decree-Law No 207/2012 is therefore not capable, alone, of modifying an Integrated Environmental Permit, but can only form the basis of an application for reconsideration of that permit. According to the referring court, the results of the study of the data obtained by the health protection authorities are classified in three progressive levels of assessment, depending on the seriousness of the problems identified. However, only the third of those levels enables the competent authority to request reconsideration of such a permit.

100 Thus, that court observes that the special rules applicable to Ilva do not provide that, where such an assessment reveals results showing the unacceptable nature of the danger to the health of a significant population exposed to polluting emissions, the Integrated Environmental Permit must be reconsidered mandatorily and promptly.

101 As regards the Ilva plant, the referring court adds that the Reports Assessing the Adverse Effects on Health in relation to the Ilva plant drawn up by the competent health protection authorities show that there was an unacceptable risk for the population linked to certain pollutant emissions from that plant. The impact of those polluting substances on the environment and human health was not, however, assessed in the context of the 2011 and 2012 Integrated Environmental Permits. Those reports led to the mayor of Taranto requesting and obtaining that the Ministry of the Environment and the Protection of the Land and Sea in May 2019 initiate the procedure for reconsidering the 2017 permit. That procedure has not yet been closed and the Ilva plant continues to operate.

102 The Italian Government considers, in that regard, that Directive 2010/75 makes no reference to an Assessment of Adverse Effects on Health, or to any other similar assessment of the impact or effects on health, as a condition for the grant of the permits for which it provides.

103 That government and Ilva also argue that an *ex ante* assessment and prior review of such adverse effects are incompatible with the dynamic nature of industrial activities and their permits. Moreover, such a methodology would not ensure the timely cessation of harm to human health.

104 However, it follows from paragraphs 67 to 95 of the present judgment that the assessment of the impact of an installation's activity on human health, such as that provided for in Article 1 bis(1) of Decree-Law No 207/2012, must form an integral part of the procedures for the grant and reconsideration of the authorisation to operate that installation and must be a prerequisite to the grant or reconsideration of that permit. In particular, that assessment must be taken into consideration, effectively and in a timely manner, by the authority competent to grant or reconsider that permit. It cannot depend on a power of application that the health protection authorities could only exercise in the most serious problematic situations. Where such an assessment reveals, as the referring court points out, results showing the unacceptable nature of the danger to the health of a large population exposed to polluting emissions, the permit concerned must be reconsidered in a short time frame.

105 In the light of all the foregoing considerations, the answer to the first question is that Directive 2010/75, read in the light of Article 191 TFEU and Articles 35 and 37 of the Charter, must be interpreted as meaning that the Member States are required to provide that the prior assessment of the effects of the activity of the installation concerned on the environment and on human health must be an integral part of the procedures for granting or reconsidering a permit to operate such an installation under that directive.

The second question

106 By its second question, the referring court asks, in essence, whether Directive 2010/75 must be interpreted as meaning that, for the purposes of granting or reconsidering a permit to operate an installation under that directive, the competent authority must take into account, in addition to the polluting substances that are foreseeable having regard to the nature and type of industrial activity concerned, all those polluting substances which are the subject of emissions scientifically recognised as harmful which result from the activity of the installation concerned, including those generated by that activity which were not assessed during the initial authorisation procedure for that installation.

107 As has been pointed out in paragraph 101 of the present judgment, that court refers to reports showing that there was an unacceptable risk for the population linked, as it had been proven, to certain pollutant emissions from the Ilva plant, namely fine PM2.5 and PM10 particulate matter, copper, mercury and naphthalene from diffuse sources. The impact of those polluting substances on the environment and human health was not, however, assessed in the context of the 2011 and 2012 Integrated Environmental Permits.

108 It is also apparent from the request for a preliminary ruling that the special rules applicable to Ilva made it possible to grant that installation the Integrated Environmental Permit and to reconsider that permit without taking account of the pollutants identified in the 'Supplemental Set' referred to in paragraph 41 of the present judgment, including fine PM2.5 and PM10 particulate matter, or of their harmful effects on the population of Taranto, in particular in the Tamburi district.

109 As regards, in the first place, the application for and the procedure for granting a permit, Article 12(1)(f) of Directive 2010/75 provides that such an application must include a description of the nature and quantities of foreseeable emissions from the installation into each medium as well as identification of significant effects of the emissions on the environment.

110 It is also apparent from the wording of Article 14(1)(a) of that directive that the permit must lay down emission limit values not only for polluting substances listed in Annex II to that directive, but also for other polluting substances 'likely to be emitted' from the installation concerned.

111 It is true that, as stated in recital 15 of Directive 2010/75, the competent national authorities have a margin of discretion in the assessment which they are called upon to carry out in order to identify the polluting substances which should be subject to emission limit values in the permit to operate an installation.

112 However, Article 14(1)(a) of that directive provides that the permit granted by those authorities is to lay down emission limit values for, in addition to the polluting substances listed in Annex II to that directive, 'other' polluting substances likely to be emitted 'in significant quantities, having regard to their nature and their potential to transfer pollution from one medium to another'.

113 It must be stated that that statement reflects the intention of the EU legislature that, in accordance with the preventive principle on which Directive 2010/75 is based, the identification of the quantity of polluting substances the emission of which may be authorised must be linked to the degree of harmfulness of the substances concerned.

114 It follows that only polluting substances considered to have a negligible effect on human health and the environment may be excluded from the category of substances which must be accompanied by emission limit values in the permit to operate an installation.

115 Accordingly, the operator of an installation is subject to the obligation to provide, in its application for a permit to operate that installation, information on the nature, quantity and potential harmful effect of the emissions likely to be produced by that installation, in order for the competent authorities to be able to set limit values for those emissions, with the sole exception of those which, by their nature or quantity, are not likely to constitute a risk to the environment or to human health.

116 So far as concerns, in the second place, the procedure for reconsideration of a permit, Article 21(5)(a) of Directive 2010/75 provides that the permit conditions are to be reconsidered if the pollution caused by an installation is of such significance that the existing emission limit values of the permit to operate that installation need to be revised or 'new such values need to be included in the permit'.

117 Therefore, it must be held that, contrary to what Ilva and the Italian Government claim, the procedure for reconsidering a permit cannot be limited to setting limit values only for polluting substances the emission of which was foreseeable and was taken into consideration during the initial authorisation procedure, without also taking account of the emissions actually generated by the installation concerned during its operation and relating to other polluting substances.

118 As the Advocate General observed in point 133 of her Opinion, it is therefore necessary to take into account the experience gained from operation of the installation concerned as part of the relevant scientific data relating to pollution and, therefore, the emissions actually established.

119 It must be added that in the context, inter alia, of the procedures provided for by Directive 2010/75 for reconsideration of a permit to operate an installation, it is necessary, in any event, to carry out a comprehensive assessment taking account of all sources of pollutants and their cumulative effect, in order to ensure that the sum total of their emissions does not cause any exceedance of the air quality limit values as defined by Directive 2008/50/EC of the European Parliament and of the Council of 21 May 2008 on ambient air quality and cleaner air for Europe (OJ 2008 L 152, p. 1), as amended by Commission Directive (EU) 2015/1480 of 28 August 2015 (OJ 2015 L 226, p. 4) (see, to that effect, judgment of 9 March 2023, *Sdruzhenie 'Za Zemyata – dostap do pravosadie' and Others*, C-375/21, EU:C:2023:173, paragraph 54).

120 In the case in the main proceedings and as regards, in particular, PM10 and PM 2.5 particulate matter, which the referring court claims were not taken into account for the purposes of setting emission limit values at the time the 2011 Integrated Environmental Permit was granted to the Ilva plant, it must be observed that the limit values set by Directive 2008/50, as amended by Directive 2015/1480, must be considered 'environmental quality standards' within the meaning of Article 3(6) and Article 18 of Directive 2010/75 (see, to that effect, judgment of 9 March 2023, *Sdruzhenie 'Za Zemyata – dostap do pravosadie' and Others*, C-375/21, EU:C:2023:173, paragraph 59).

121 Therefore, as the Advocate General noted in point 129 of her Opinion, if compliance with those standards makes it necessary to impose stricter emission limit values on the installation concerned, those emission limit values have to be determined in accordance with Article 18 of Directive 2010/75, under which additional measures must then be included in the permit, without prejudice to other measures which may be taken to comply with environmental quality standards.

122 It follows from the foregoing considerations that the answer to the second question is that Directive 2010/75 must be interpreted as meaning that, for the purposes of granting or reconsidering a permit to operate an installation under that directive, the competent authority must take into account, in addition to the polluting substances that are foreseeable having regard to the nature and type of industrial activity concerned, all those polluting substances which are the subject of emissions scientifically recognised as harmful which are liable to be emitted from the installation concerned, including those generated by that activity which were not assessed during the initial authorisation procedure for that installation.

The third question

123 By its third question, the referring court asks, in essence, whether Directive 2010/75 must be interpreted as precluding national legislation under which the period granted to the operator of an installation to comply with the measures for the protection of the environment and human health provided for in the permit to operate that installation has been repeatedly extended, whereas serious and significant risks to the integrity of the environment and human health have been identified.

124 The national court points out in that regard that the special rules applicable to Ilva enabled numerous extensions to be granted to the Ilva plant which were not always linked to effective reconsideration and updates of the operating conditions of that plant. The extension of the deadlines for implementing the measures intended to ensure compliance with the 2011 Integrated Environmental Permit occurred, first, with regard to an industrial operation regarded by the legislature itself as posing a serious risk to human health and the environment and, second, with the objective of carrying out the work intended to make that operation, in theory, safe for the health of persons living near that plant. However, as is apparent from the request for a preliminary ruling and as was confirmed by Ilva and the Italian Government at the hearing

before the Court, the adoption and implementation of the measures intended to achieve that objective have been postponed on several occasions.

125 As a preliminary point, it must be observed that since the permit at issue concerned, in the case in the main proceedings, an existing installation within the meaning of Article 2(4) of Directive 96/61, that permit first fell under that directive, then under Directive 2008/1. Under Article 5(1) of the latter directive, the deadline for ensuring compliance of existing installations with that directive was 30 October 2007 (judgment of 31 March 2011, *Commission* v *Italy*, C-50/10, EU:C:2011:200, paragraph 29 and the case-law cited). However, as is clear from the information available to the Court, that date was not complied with in the case of the Ilva plant, an environmental permit for whose operation was not granted until 4 August 2011.

126 That being so, it must be held that, as regards Directive 2010/75, pursuant to Article 82(1) of that directive, in relation to installations such as the Ilva plant, the Member States were required, from 7 January 2014, to apply the provisions adopted in order to transpose that directive into their national legal order, with the exception of provisions of that directive which are not relevant in the context of the case in the main proceedings. Article 21(3) of Directive 2010/75 granted a period of four years from the publication of decisions on BAT conclusions in accordance with Article 13(5) of that directive relating to the main activity of an installation, in the present case until 28 February 2016, for adaptation of the permit conditions to the new techniques.

127 It should be added that, in accordance with Article 8(1) and Article 8(2)(a) and (b) of Directive 2010/75, in the event of a breach of the permit conditions for the operation of an installation, the Member States must take the necessary measures to ensure that those conditions are complied with immediately. In particular, the operator of the installation concerned must immediately take the measures necessary to ensure that the compliance of its installation with those conditions is restored within the shortest possible time.

128 Furthermore, as has already been pointed out in paragraph 91 of the present judgment, where an infringement of such conditions poses an immediate danger to human health or threatens to cause an immediate significant adverse effect upon the environment, the second subparagraph of Article 8(2) of Directive 2010/75 requires that the operation of that installation be suspended.

129 The Italian Government argued at the hearing before the Court that bringing the plant into line with the requirements laid down by the 2011 Integrated Environmental Permit would have led to an interruption of the establishment's activity for several years. It submits that that installation is an important source of employment for the region concerned. Therefore, the adoption of the special rules applicable to Ilva is a balancing act between the interests involved, namely the protection of the environment, on the one hand, and that of employment, on the other.

130 In that regard, it should, however, be pointed out that, according to recital 43 of Directive 2010/75, the EU legislature provided that certain new requirements under that directive are to apply to existing installations, such as the Ilva plant, after a fixed period from the date of application of that directive, 'in order to provide [those] existing installations with sufficient time' to adapt technically to those new requirements.

131 In those circumstances, it is for the referring court to assess whether the special rules adopted in respect of the Ilva plant had the effect of excessively deferring, beyond that transitional period and the period laid down in Article 21(3) of Directive 2010/75, the implementation of the measures necessary to comply with the 2011 Integrated Environmental Permit, having regard to the degree of seriousness of the damage to the environment and to human health which has been identified.

132 Having regard to the foregoing considerations, the answer to the third question is that Directive 2010/75 must be interpreted as precluding national legislation under which the period granted to the operator of an installation to comply with the measures for the protection of the environment and human health provided for in the permit to operate that installation has been repeatedly extended, whereas serious and significant risks to the integrity of the environment and human health have been identified. Where the activity of the installation concerned presents such risks, the second subparagraph of Article 8(2) of that directive requires, in any event, that the operation of that installation be suspended.

Costs

133 Since these proceedings are, for the parties to the main proceedings, a step in the action pending before the referring court, the decision on costs is a matter for that court. Costs incurred in submitting observations to the Court, other than the costs of those parties, are not recoverable.

On those grounds, the Court (Grand Chamber) hereby rules:

1. **Directive 2010/75/EU of the European Parliament and of the Council of 24 November 2010 on industrial emissions (integrated pollution prevention and control), read in the light of Article 191 TFEU and Articles 35 and 37 of the Charter of Fundamental Rights of the European Union,**

must be interpreted as meaning that the Member States are required to provide that the prior assessment of the effects of the activity of the installation concerned on the environment and on human health must be an integral part of the procedures for granting or reconsidering a permit to operate such an installation under that directive.

2. **Directive 2010/75**

must be interpreted as meaning that, for the purposes of granting or reconsidering a permit to operate an installation under that directive, the competent authority must take into account, in addition to the polluting substances that are foreseeable having regard to the nature and type of industrial activity concerned, all those polluting substances which are the subject of emissions scientifically recognised as harmful which are liable to be emitted from the installation concerned, including those generated by that activity which were not assessed during the initial authorisation procedure for that installation.

3. **Directive 2010/75**

must be interpreted as precluding national legislation under which the period granted to the operator of an installation to comply with the measures for the protection of the environment and human health provided for in the permit to operate that installation has been repeatedly extended, whereas serious and significant risks to the integrity of the environment and human health have been identified. Where the activity of the installation concerned presents such risks, the second subparagraph of Article 8(2) of that directive requires, in any event, that the operation of that installation be suspended.

[Signatures]

---

* Language of the case: Italian.