Case C-243/15 Lesoochranárske zoskupenie vlk v Obvodný úrad Trenčín

EU:C:2016:838

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1 Introduction

One of the more interesting cases of recent years has to be the Slovak Bears case.¹ This case dealt with the position of a Slovak environmental non-governmental organisation (ENGO) in administrative proceedings in relation to requested derogations in the hunting and permitting law regarding the European Brown Bear. Due to the nature of the Slovak administrative law, the ENGO would only be awarded certain rights if it could get the qualification of ‘participant’ in the proceedings. When this status was denied, the ENGO was de facto barred from taking part in the discussion regarding the requested derogations, but equally would not be notified of developments; would not get access to documents, and would not be able to contest the outcome of the administrative process. The ENGO was denied the status of participant and contested this denial.

The case rose to prominence when the Slovakian Supreme Court sent a preliminary reference to the Court of Justice of the European Union (CJEU) which referenced the obligations of the Slovakian government under the Aarhus Convention.² This international agreement, signed both by the Member States and the EU, is well known for being an innovative attempt to solve the problems faced by many individuals and NGOs when trying to protect their living environment. It does so by committing its signatories to the securing and, where necessary, relaxing of the procedural rights of parties regarding access to information, participation in decision-making, and access to justice.

¹ Case C-240/09, Lesoochranárske zoskupenie vlk v. Ministerstvo životného prostredia Slovenskej republiky EU:C:2011:115 (Slovak Bears).
The Slovak Bear case was of interest as it presented the Court with a case in which an international agreement interacted with European law in an area that has traditionally been regarded as off-limits for judicial intervention under the concept of ‘procedural autonomy’. One of the most cited articles on this case has therefore rightly been titled: “Who is the Referee?”. At the time of the Slovak Bear case, the theoretical possibilities of the CJEU to enforce the Aarhus Convention, which itself has a more conciliatory compliance mechanism, were of great interest not only to national ENGOs but equally so to the academics studying the Court’s own approach to standing of public interest litigants. The facts surrounding the Slovak Bear case were enlivened by the fact that the Court itself does not have the best reputation when it comes to locus standi in non-economic cases.

Given the above, it is safe to say that the resolution of the Slovak Bear case has drawn a lot of attention. The Court of Justice did indeed find a way to

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3 For a discussion on whether or not this concept does even still exist, the following contribution by Bobek is highly recommended: ‘Why There Is No Principle of “Procedural Autonomy” of the Member States’, The European Court of Justice and the Autonomy of Member States (Intersentia 2012).


