

(English version)

**Question for written answer E-002708/24
to the Commission
Estrella Galán (The Left)
(2 December 2024)**

Subject: Measures to suspend the Mularroya project and prevent the undermining of Special Protection Areas and the Water Framework Directive

The Mularroya project is a set of hydraulic structures (a dam, a diversion weir and a diversion tunnel) in the Grío and Jalón rivers — Ebro river basin — which has seriously impacted the environment in a number of ways.

The first building permit for the project ⁽¹⁾ was annulled ⁽²⁾ ⁽³⁾. The second one ⁽⁴⁾ was also annulled, at first instance ⁽⁵⁾, but the Spanish Supreme Court overturned that judgment on appeal ⁽⁶⁾.

This appeal on a point of law addressed ⁽⁷⁾ whether the requirement to state and explain the ‘deterioration’ exemption in the river basin management plan (Article 4(7)(b) of Directive 2000/60 ⁽⁸⁾) should necessarily entail a statement detailing the impacts on the affected bodies of water and identify every such body to which the exemption applies.

Without making a reference for a preliminary ruling to the CJEU, the Supreme Court stated in its judgment ⁽⁹⁾ that it was not necessary to make such a statement. This is contrary to the case-law of the CJEU which requires that such statements be assessed (judgment of 1 June 2017, *Folk*, C-529/15 ⁽¹⁰⁾, paragraph 39; judgment of 28 May 2020, *Land Nordrhein-Westfalen*, C-535/18 ⁽¹¹⁾, paragraph 81; and judgment of 1 July 2015, *Bund für Umwelt und Naturschutz Deutschland*, C-461/13 ⁽¹²⁾, paragraph 66).

1. What is the Commission’s view on the potential consolidation of court judgments that run counter to the case-law of the CJEU?

2. What concrete actions could the Commission take?

Submitted: 2.12.2024

**Answer given by Ms Roswall on behalf of the European Commission
(28 February 2025)**

Under Article 267 of the Treaty on the Functioning of the European Union, where a question on the interpretation of acts of the institutions is raised in a case pending before a court or tribunal of a Member State against whose decisions there is no judicial remedy under national law, that court or tribunal shall bring the matter before the Court of Justice of the European Union (CJEU).

The CJEU has declared that a court or tribunal against whose decisions there is no judicial remedy under national law is required, where a question of Community law is raised before it, to comply with its obligation to bring the matter before the Court of Justice, unless it has established that the question raised is irrelevant or that the Community provision in question has already been interpreted by the Court or that the correct application of Community law is so obvious as to leave no scope for any reasonable doubt ⁽¹⁾.

Therefore, national courts against whose decisions there is no remedy under national law and which refuse to refer to the CJEU a preliminary question on the interpretation of EU law that has been raised before them are obliged to give reasons for their refusal in the light of the exceptions provided for in the case-law of the CJEU ⁽²⁾.

In the judgment referred to by the Honourable Member, the Spanish Supreme Court (Court of last resort) stated that the arguments set out in the case and the judgments of the CJEU mentioned therein made it unnecessary to raise a preliminary question before the CJEU for the resolution of the appeal.

¹ https://www.boe.es/diario_boe/txt.php?id=BOE-B-2007-77143.

² <https://www.poderjudicial.es/search/AN/openDocument/4260aae18bfc87d7/20090709>.

³ <https://www.poderjudicial.es/search/AN/openDocument/8891be2eddbba434f/20130320>.

⁴ https://www.boe.es/diario_boe/txt.php?id=BOE-B-2015-32010.

⁵ <https://www.poderjudicial.es/search/AN/openDocument/deb56eb02604e00a/20210421>.

⁶ <https://www.poderjudicial.es/search/AN/openDocument/425bcde4e87e0851a0a8778d75e36f0d/20221121>.

⁷ <https://www.poderjudicial.es/search/AN/openDocument/000173a8f1a4b3aa/20211104>.

⁸ <https://eur-lex.europa.eu/eli/dir/2000/60/oj?uri=CELEX:32000L0060>

⁹ <https://www.poderjudicial.es/search/AN/openDocument/425bcde4e87e0851a0a8778d75e36f0d/20221121>.

¹⁰ <https://curia.europa.eu/juris/liste.jsf?language=en&num=C-529/15>.

¹¹ <https://curia.europa.eu/juris/liste.jsf?language=en&num=C-535/18>.

¹² <https://curia.europa.eu/juris/liste.jsf?language=en&num=C-461/13>.

⁽¹⁾ Judgment of the Court of Justice of 6 October 1982, in *CILFIT v. Ministero della Sanità*, C-283/81.

⁽²⁾ *Ullens de Schooten and Rezabek v. Belgium*, 2011, § 62; *Sanofi Pasteur v. France*, 2020, § 70.

Therefore, the Supreme Court did not have doubts on the interpretation of the relevant EU law that would make it necessary to bring the matter before the CJEU for the resolution of the appeal.

The Commission does not intend to take further action.
