Corte costituzionale

JUDGMENT NO. 193 OF 2010

Francesco AMIRANTE, President

Paolo MADDALENA, Author of the Judgment

JUDGMENT NO. 193 YEAR 2010

In this case the President of the Council of Ministers challenged a Regional Law enacted by Piedmont which purported to create a new category of nature reserve in which, *inter alia*, hunting was permitted on the grounds that it infringed the State's legislative jurisdiction over environmental law. The Court struck down the contested legislation as unconstitutional on the grounds it was for the State alone to classify protected areas. Moreover, the prohibition against hunting furthered one of the core interest behind the creation of protected areas, and hence applied irrespective of the manner in which the area was classified. The Court also struck down other provisions relating to natural parks on the grounds that the Region did not engage in the necessary consultation with the State prior to enacting them.

THE CONSTITUTIONAL COURT

composed of: President: Francesco AMIRANTE; Judges: Ugo DE SIERVO, Paolo MADDALENA, Alfio FINOCCHIARO, Alfonso QUARANTA, Franco GALLO, Luigi MAZZELLA, Gaetano SILVESTRI, Sabino CASSESE, Maria Rita SAULLE, Giuseppe TESAURO, Paolo Maria NAPOLITANO, Giuseppe FRIGO, Alessandro CRISCUOLO, Paolo GROSSI,

gives the following

JUDGMENT

in proceedings concerning the constitutionality of Articles 5(1)(c), 7(2)(a)(iii) and (iv) and (d)(i), 8(4), 26(1), 27(3) and Annex B to Piedmont Regional Law no. 10 of 29 June 2009 (Consolidated text on the protection of natural areas and biodiversity), initiated by the President of the Council of Ministers by an application served on 28 August – 1 September 2009, filed in the Court Registry on 4 September 2009 and registered as no. 57 in the Register of Applications 2009.

Considering the entry of appearance by Piedmont Region;

having heard the Judge Rapporteur Paolo Maddalena in the public hearing of 27 April 2010;

having heard the *Avvocato dello Stato* Massimo Salvatorelli for the President of the Council of Ministers and Counsel Giovanna Scollo for Piedmont Region.

The facts of the case

1. - By application served on 28 August 2009 and filed on 4 September, the President of the Council of Ministers seized the Court directly with a question concerning the constitutionality of Articles 5(1)(c), 7(2)(a)(iii) and (iv) and (d)(i), 8(4), 26(1), 27(3) and Annex B of Piedmont Regional Law no. 19 of 29 June 2009 (Consolidated text on the protection of natural areas and biodiversity).

2. - Article 5 of Piedmont Regional Law no. 19 of 2009 specifies four categories of protected areas administered by the Region, the provinces and the local authorities: natural parks, natural reserves, natural safeguard areas and special reserves.

Article 5(1)(c) specifies that in the natural safeguard areas the arrangements governing use and protection does not apply to hunting and that they are characterised by elements of environmental interest or that entail the gradual linkage with the arrangements governing use and protection of other types of areas that form part of the regional ecological network and the surrounding territories.

Article 8(4) provides that the prohibitions applicable to the protected areas classified as a natural park or a natural reserve shall apply in the aforementioned natural safeguard areas, with the exception of prohibitions on hunting, the bearing and use of arms or traps, or the low-level overflight by aircraft.

Having concluded that the combined provisions of these last two provisions establish that hunting is permitted in the natural safeguard areas, the President of the Council of Ministers complains that the exclusive jurisdiction of the State over the environment and the ecosystem under Article 117(2)(s) of the Constitution has been infringed, with reference to Article 22(6) of Law no. 394 of 6 December 1991 (Framework Law on protected areas), which provides on the other hand that hunting is prohibited in regional natural parks and in regional natural reserves, with the exception

of any removals of fauna and selective culling necessary in order to counteract ecological imbalances.

2.1. - Article 7(2) of Piedmont Regional Law no. 19 of 2009 specifies the goals pursued by the operators of the protected areas, providing in particular:

– that the operators of the natural parks shall pursue, *inter alia*, the goal of protecting and exploiting the historical, cultural and architectural heritage (Article 7(2)(a)(iii)) and of guaranteeing, through an area planning process, the local territorial and development balance and the recovery of landscape and environmental resources (Article 7(2)(a)(iv));

– that the operators of the special reserves shall pursue, *inter alia*, the goal of protecting, administering and exploiting the archaeological, historical, artistic or cultural heritage subject to protection (Article 7(2)(d)(i)).

The President of the Council of Ministers argues that the goal of protecting the historical, cultural and architectural heritage granted to the operator of the natural park under Article 7(2)(a)(iii) of Piedmont Regional Law no. 19 of 2009 violates Articles 4 and 5 (and above all paragraphs 6 and 7) and the whole of Part II of Legislative Decree no. 42 of 22 January 2004 (Cultural heritage and landscape code, enacted pursuant to Article 10 of Law no. 137 of 6 July 2002), which reserves the role of protecting cultural heritage to the State, and consequently considers that Articles 117(2)(s) and (3) and 118 of the Constitution have been violated, given that the provisions of the Cultural heritage code referred to amount to "interposed legislation" for the purposes of Article 117(2)(s) of the Constitution and express a "fundamental principle" pursuant to Article 117(3) of the Constitution.

The applicant then argues that the goal of guaranteeing the recovery of landscape and environmental resources assigned to the operator of the natural park under Article 7(2)(a)(iv) of the Regional Law violates the whole of Part III of Legislative Decree no. 42 of 2004, and specifically Article 133 which allocates the task of the recovery of landscape resources to joint planning between the State and the Region, and consequently considers that Articles 117(2)(s) and (3) and 118 of the Constitution have been violated, given that the provisions of the Cultural heritage code referred to amount

to “interposed legislation” for the purposes of Article 117(2)(s) of the Constitution and express a “fundamental principle” pursuant to Article 117(3) of the Constitution.

Finally, the applicant argues that even the goal of protecting, administering and exploiting the archaeological heritage conferred on the operator of the special area pursuant to Article 7(2)(d)(i) of the Regional Law violates Articles 117(2)(s) and (3) and 118 of the Constitution, since these powers are reserved to the State Administrations and no State law had yet been enacted making provision for forms of agreement and coordination in this area between the State and the regions pursuant to Article 118(3) of the Constitution.

2.2. - Article 26 of Piedmont Regional Law no. 19 of 2009 provides that an area plan shall be drawn up for the protected natural areas classified as a natural park or a natural safeguard area with the status of a regional territorial plan and which shall replace any incompatible provisions of territorial or development plans on any level.

Article 27 of the Law provides that the nature plans shall have the status of an administration plan for the protected area and that the rules contained in them shall be binding on all levels.

The President of the Council of Ministers argues that these last two provisions violate Article 145 of Legislative Decree no. 42 of 2004 – which establishes the principle of the priority of the landscape plan over the provisions contained in planning decisions with a territorial impact provided for under sectoral legislation, including the decisions of the operators of protected natural areas – and, consequently, that they violate Articles 117(2)(s) and (3) of the Constitution, since the provisions referred to from the Cultural heritage code amount to “interposed legislation” for the purposes of Article 117(2)(s) of the Constitution, and express a “fundamental principle” pursuant to Article 117(3) of the Constitution.

According to the State representative, the contested provisions are analogous to those contained in Article 12(2) of Piedmont Regional Law no. 3 of 19 February 2007, declared unconstitutional by this Court in judgment no. 180 of 2008 on the grounds that they changed the order of priority set under State legislation between landscape planning instruments.

2.3. - Annex B to Piedmont Regional Law no. 19 of 2009 specifies the stages of the impact assessment of projects and plans on sites included in the European ecological network Natura 2000 provided for under Article 5 of Presidential Decree no. 357 of 8 August 1997 (Regulation implementing Directive 92/43/EEC on the conservation of natural and semi-natural habitats and of wild fauna and flora).

According to the contested Annex B, this assessment consists in four stages (stage I: screening; stage II: appropriate assessment; stage III: assessment of alternative solutions; stage IV: : assessment where no alternative solutions exist and where adverse impacts remain).

In particular, for Stage II (appropriate assessment) it is necessary to "[c]onsider the impact of the project or plan on the integrity of the Natural 2000 site either individually or jointly with other plans or projects, taking account of the structure and function of the site as well as its conservation objectives" and "[i]n the event that the assessment is negative, a procedure in which possible mitigation measures are determined is also added".

The President of the Council of Ministers argues that the last part of this provision violates Article 5 of Presidential Decree no. 357 of 1997 according to which, when notwithstanding the negative conclusions of the impact assessment of the site and in the absence of possible alternative solutions, the plan or initiative must be implemented due to imperative reasons of significant public interest, including reasons of a social and economic nature, the competent administrations shall adopt all necessary compensatory measures. Consequently, this is claimed to violate Article 117(2)(s) of the Constitution.

According to the State representative, if the conclusion of the impact assessment is negative, there is in fact an obligation to adopt compensatory measures and not merely mitigation measures, such as those provided for under the regional legislation, which would by contrast be provided for in the event of a positive outcome to the impact assessment.

3. Piedmont Region entered an appearance with a written statement in which it argues that the application is groundless.

3.1. - As regards the challenge to Articles 5(1)(c) and 8(4) of Piedmont Regional Law no. 19 of 2009, the Region's representative argues that the question is groundless,

arguing that the national legislation relied on by the applicant (Article 22(6) of Law no. 394 of 1991) prohibits (in exactly the same manner as Regional Law no. 19 of 2009) hunting in natural parks and in regional natural reserves, but by no means does so in natural safeguard areas. These latter areas – which are unknown under national legislation – are not classifiable either as regional parks or natural reserves, and were established by the regional legislature as areas of gradual linkage between the regional ecological network and the surrounding areas.

3.2. - As far as the challenge to Article 7(2)(a)(iii) and (iv) and (d)(i) of Piedmont Regional Law no. 19 of 2009 is concerned, the Regional representative argues that "the sharing of and respect for protection goals, defined *in primis* under State legislation" could not in any way be understood "as a form of infringement of the State's powers".

As regards the failure to reach agreement on the protection, administration and exploitation of the archaeological, historical or cultural heritage objected to by the applicant, the Region's representative goes on to argue that Article 5 of Law no. 394 of 1991 specifies as a fundamental principle the participation of the local authorities in the establishment and operation of protected areas and that the territory be used in a manner compatible with the special intended use of the area. Moreover, Article 5 of Legislative Decree no. 42 of 2004 provides for cooperation between the Regions and the local authorities in matters relating to the protection of cultural heritage, as well as a contribution by the regions to the costs of conserving cultural heritage and the promotion of its use and exploitation by the public authorities. The Region's representative goes on to observe that seven out of the nine sites identified as special reserves were "*Sacri Monti*"* governed by Law no. 77 of 20 February 2006 (Special measures on the protection and use of Italian sites of cultural, landscape and environmental interest included in the world heritage list placed under the protection of UNESCO) regarding which the State has acknowledged since the year 2003 that the Region has a role to play, whilst the other two sites classified as special reserves (*La Bessa* and *La Benevagienna*) have for decades been subject to ministerial protection regimes due to the presence of significant archaeological artefacts from the Roman era. Consequently, any regional conservation initiative in these areas would be subject to

* Hilltop religious sites.

prior review and authorisation by the state bodies charged with their protection. Accordingly, it is claimed that the Regional Law does not purport to establish self-standing regional competence aimed at the protection of historical and cultural heritage, but on the contrary traces out a roadmap for guaranteeing parallel action to safeguard and exploit that heritage.

3.3. - As regards the challenge to Articles 26 and 27 of Piedmont Regional Law no. 19 of 2009, the Region's representative argues that the application is based on a mistaken interpretation of the contested provisions. The priority granted to the area plan for the natural parks and the natural safeguard areas (which has the status of a regional territorial plan) over all incompatible rules contained in local territorial and development plans (Article 26) and the binding nature of the nature plan on all levels (which has the status of an operational plan for the protected area) do not by any means preclude the priority of the landscape plan over all other planning instruments with a territorial impact governed by the sectoral legislation contained in Article 145 of Legislative Decree no. 42 of 2004, but should rather be understood as providing for the priority of the said plans (only) over other local planning instruments falling under the Region's powers over territorial government.

Moreover, there is claimed to be no analogy between the provisions currently challenged and those at issue in judgment no. 180 of 2008 by this Court, since the current provisions do not confuse territorial planning with landscape planning (as by contrast Article 12(2) of Piedmont Regional Law no. 3 of 2007 did), but keep them rigorously separate, albeit within the unitary perspective of landscape planning asserted under judgment no. 180 of 2008.

As demonstration of its argument, Piedmont Region refers to the regional landscape plan (hereafter, "RLP") approved on 4 August 2009 which, after having recognised (in Article 2) the contents of pre-existing regional and provincial area plans, and landscape or territorial plans for highly valued landscapes, provides (in Article 2(5)) that these must be subject to joint review with the Ministry within twelve months of approval of the RLP with a view to updating them or acknowledging their status as plans implementing the provisions of the RLP. It also provides (in Article 46) that the

operators of the protected natural areas must amend or adapt their territorial planning instruments in line with the provisions of the RLP within 24 months of approval.

3.4. - Also as regards the challenge brought against Annex B to Piedmont Regional Law no. 19 of 2009, the Region's representative argues that the application is based on an incorrect interpretation of the contested provisions and, in particular, on a confusion over the different stages in the procedure in which assessments of mitigation measures and of compensation measures occur, as well as over the different functions of these two types of measure.

The Region's representative specifies in this regard that the contested legislation (as well as the terminology used) merely reflects that contained in the publication "Assessment of plans and projects significantly affecting Natura 2000 sites: Methodological guidance on the provisions of Article 6(3) and (4) of the Habitats Directive 92/43/EEC", prepared by Oxford Brookes University on behalf of the European Commission.

In this guide, which is also available on the website of the Minister for the Environment and the Protection of the Territory and the Sea, it is highlighted in Stage II ("appropriate assessment") that, once the negative effects of the plan or project have been identified and the impact on the conservation objectives of the site has been clarified, it is possible to identify the necessary the necessary mitigation measures in a targeted manner.

According to the Region's representative, again referring to that publication, these measures are conceptually different from the compensation measures provided for and applicable in Stage IV ("assessment where no alternative solutions exist and where adverse impacts remain") since:

a) the mitigation measures seek to reduce the negative effects of the initiatives (and, in this sense, if they are implemented properly they reduce or pre-empt the very need for compensation measures);

b) in cases in which the initiative is absolutely necessary and inevitable, the compensation measures are intended to guarantee the continuity of the site's functional contribution to the conservation of one or more habitats or species in the bio-geographical region concerned in a satisfactory state.

Therefore, the State's application is claimed to be groundless insofar as it avers the violation of Article 5 of Presidential Decree no. 357 of 1997, since the contested Annex B also provides – in exactly the same manner as the State legislation allegedly violated – for the adoption (in stage IV of the assessment phase) of compensation measures and since the provision (in stage II of the assessment) of mitigation measures is complementary and not alternative to the adoption (in stage IV of the assessment) of mandatory compensation measures.

Conclusions on points of law

1. - The President of the Council of Ministers seized the Court directly with a question concerning the constitutionality of Articles 5(1)(c), 7(2)(a)(iii) and (iv) and (d)(i), 8(4), 26(1), 27(3) and Annex B of Piedmont Regional Law no. 19 of 29 June 2009 (Consolidated text on the protection of natural areas and biodiversity).

2. - In order to resolve the questions raised, it must first be stated that the establishment of State or regional protected areas aims to "protect" and "exploit" territories endowed with cultural, landscape or environmental value which deserve to be safeguarded and protected. Consequently, there is no doubt that since Framework Law no. 394 of 1991 on protected areas provides for the establishment of regional protected areas, distinguishing them from State areas according to the extent of the interest protected, and allocating their administration to the regions, the regions must exercise the ancillary administrative powers relating both to the "protection" as well as the "exploitation" of these ecosystems.

In introducing the exclusive jurisdiction of the State over matters relating to the "protection" of the environment, the ecosystem and cultural heritage in Article 117(2)(s) (judgment no. 272 of 2009), the amendment to Title V of Part II of the Constitution changes the reference framework within which Law no. 394 of 1991 operated, providing that legislative jurisdiction over "protection" was to be vested exclusively in the State, whilst the regions could only exercise administrative "protection" functions if

and insofar as allocated to them by the State in accordance with the principle of subsidiarity laid down by Article 118(1) of the Constitution.

Within this changed constitutional context, Framework Law no. 394 of 1991 must be interpreted as a law granting the regions administrative powers over the protection of the environment, the ecosystem and cultural heritage, to be exercised according to the principle of cooperation between the State and the regions, as moreover is specified in Article 1(5) of the Law, which provides that "the State, the regions and the local authorities shall engage in forms of cooperation and agreement pursuant to Article 81 of Presidential Decree no. 616 of 24 July 1977, and Article 27 of Law no. 142 of 8 June 1990 with regard to the protection and administration of the protected areas".

Therefore, the regions are granted jurisdiction to exercise the administrative functions that are indispensable for the pursuit of the goals of the protected areas, namely the functions of protection and exploitation.

These administrative functions, which are distinctly different from one another, must moreover be exercised in such a manner that the protection requirements are in any case satisfied, as may be inferred from Articles 3 and 6 of Legislative Decree no. 42 of 2004, as well as Article 131 of that Decree.

Within this framework accordingly, whilst on the one hand the regions cannot infringe the exclusive legislative powers of the State over the protection of the environment, the ecosystem and cultural heritage, they are on the other hand required to comply with the legislation laid down by State laws which, as far as "protection" is concerned, provide for the allocation of precise administrative functions to the regions, requiring that they be exercised in accordance with the principle of cooperation between the State and the regions and, as far as the "exploitation" functions are concerned, lay down fundamental principles which the regions are required to respect.

3. - The first question raised by the applicant concerns hunting in the areas that Piedmont Regional Law no. 19 of 2009 defines as "natural safeguard areas".

The question relates to Article 5(1)(c) and Article 8(4), which permit hunting in natural safeguard areas and which are both challenged by the President of the Council of Ministers due to violation of Article 22 of Law no. 394 of 1991, which prohibits

hunting in regional natural parks and natural reserves and, consequently, due to violation of Article 117(2)(s) of the Constitution.

The question is well founded.

In making provision for the "natural safeguard areas", Article 5(1) of Regional Law no. 19 of 2009 expressly classifies them as protected areas.

This is moreover a type of protected area that is not provided for under state legislation (which is responsible for the "classification" and hence the "denomination" or protected areas pursuant to Article 3(4) of Framework Law no. 394 of 1991) and which the regional legislature is not therefore permitted to establish (given that the resolution of 2 December 1996 – which is still in force – of the Committee for protected natural areas, now replaced by the Permanent Assembly for relations between the State and the regions, did not provide – and hence did not consent to – the type of protected area introduced by the regional legislation). However, even leaving aside this issue, it must in any case be concluded that the prohibition on hunting contained in Article 22(6) of Framework Law no. 394 of 1991 for regional parks and natural reserves (or for the regional protected areas provided for and permitted under State legislation) also applies to the natural safeguard areas, given that the goal of protecting fauna is inherent in the function of any protected area.

In fact, the prohibition on hunting is one of the most significant goals that justify the creation of a protected area, since the object of hunting is wild fauna, an environmental resource of significant importance, the protection of which falls within the ambit of "protection of the environment and the ecosystem", jurisdiction over which is vested exclusively in the State, which must attend to it and ensure not a "minimum" level of protection but rather one that is "adequate and non-reducible", as specified in the most recent case law of this Court, without prejudice to the region's power to stipulate higher levels of protection, provided that it does so in accordance with its own self-standing legislative powers (judgment no. 61 of 2009).

The prohibition on hunting in protected areas asserted by Law no. 394 of 1991 was moreover reiterated by Law no. 157 of 11 February 1992 (Provisions on the protection of homoeothermic wild fauna and on hunting) which, in providing that "wild fauna is an inalienable resource of the State" (Article 1(1)) and that "hunting is permitted subject to

the proviso that it does not conflict with the requirement to conserve wild fauna" (Article 1(2)), lists amongst the matters reserved to the State (and not delegated or, in today's terminology, "conferred" on the regions), "the identification of species that may be hunted and the hunting seasons" (Article 18), and also makes provision for a series of prohibitions (Article 21), including the prohibition on hunting "in national parks, regional natural parks and natural reserves".

3.1. - The second question concerns the constitutionality of the conferral on the operators of regional natural parks of the task of protecting historical, cultural and architectural heritage, as well as the conferral on the operators of protected areas called "special reserves" of the task of protecting archaeological, historical, artistic and cultural heritage. These provisions, which the applicant considers breach Articles 4 and 5 of Legislative Decree no. 42 of 2004 – and therefore Articles 117 and 118 of the Constitution – are contained respectively in Article 7(2)(a)(iii) and (2)(d)(i) of the Regional Law concerned.

The questions are well founded within the limits specified above.

Indeed, the contested provisions – by which Piedmont Region unilaterally enacts legislation, without reference to any form of cooperation with the State, providing for the conferral of the tasks of protecting, exploiting and administering cultural heritage on the operators of regional natural parks and special reserves – clearly contrast with Articles 4 and 5 of Legislative Decree no. 42 of 2004 which require that cooperation as a prerequisite for the exercise of administrative protection functions by the regions, insofar as they refer (not only to the administration or exploitation but also) to the protection of historical, cultural and architectural heritage or of archaeological, historical, artistic and cultural heritage. Accordingly, in the light of the considerations set out above (in section 3), the Court finds that Article 7(2)(a)(iii) is unconstitutional with respect to the words "protect and", and Article 7(2)(d)(i) with respect to the word "protect".

3.2. - A further question raised by the applicant concerns the violation of Articles 117(2)(s) and (3) and 118 of the Constitution, with reference to Part III of Legislative Decree no. 42 of 2004, and in particular Article 133, by Article 7(2)(a)(iv) of the Piedmont Regional Law, according to which it is for the operators of the regional

natural parks “to guarantee, through an area planning process, the local territorial and development balance and the recovery of landscape and environmental resources”.

This question is also well founded.

Article 133 of Legislative Decree no. 42 of 2004 reiterates the principle of cooperation between the public administrations regarding “the establishment of guidelines and criteria relating to the protection, planning, recovery, requalification and exploitation of the countryside”. On the contrary, the Region enacted legislation unilaterally. Therefore, for the same reasons specified above, that provision must be declared unconstitutional.

3.3. - The fourth question raised by the applicant concerns Articles 26 and 27 of the Piedmont Regional Law jointly, due to violation of Article 117(2)(s) and (3) of the Constitution, with reference to Article 145 of Legislative Decree no. 42 of 2004.

Article 26 of that Law provides that an area plan shall be drawn up for protected natural areas classified as natural parks or natural safeguard areas which shall have the status of a regional territorial plan and replace any incompatible provisions of territorial or development plans on any level, whilst Article 27 of the Regional Law provides that the nature plans shall have the status of administration plans for the protected area and that the rules contained in them shall be binding on all levels.

The question is well founded.

In fact, the contested provisions violate Article 145 of Legislative Decree no. 42 of 2004, which establishes the principle of the priority of the landscape plan over the provisions contained in planning decisions with a territorial impact provided for under sectoral legislation, including the decisions of the operators of protected natural areas. For the reasons already clarified in the case law of this Court (see judgments no. 180 and no. 437 of 2008) these provisions must also be declared unconstitutional.

3.4. - The last question raised concerns Annex B to Piedmont Regional Law no. 19 of 2009.

According to the applicant, that Annex – under which projects or plans relating to the surrounding protected areas are subject to four-stage impact assessments – provides in relation to Stage II that “in the event that the assessment is negative, a procedure in which possible mitigation measures are determined is also added” whereas, since it

involves a negative impact, it should have provided for compensation and not mitigation measures, pursuant to Article 5(9) of Presidential Decree no. 357 of 8 September 1997 (Regulation implementing Directive 92/43/EEC on the conservation of natural and semi-natural habitats and of wild fauna and flora).

The question is groundless.

In fact, the Regional Law limited itself to including in Annex B the guidelines drawn up on behalf of the European Commission, which provide for a four stage impact assessment, depending on the intensity of the impact and require, for stage two, the adoption of mitigation measures on a case by case basis aimed at minimising the environmental impact of the initiative, plan or programme, and also provide in relation to stage four – on initiatives and programmes with a highly negative impact, but that are necessary due to imperative reasons of significant public interest – for the imposition of compensation measures that can guarantee the conservation equilibrium of natural habitats within the context of the entire bio-geographical region concerned. In other words, the mitigation measures provided for under Annex B do not replace the conservation measures, and their provision – which is required under Community law – is consistent with the requirements laid down by Article 5 of Presidential Decree no. 357 of 1997 implementing Directive 92/43/EEC.

ON THOSE GROUNDS

THE CONSTITUTIONAL COURT

declares unconstitutional Articles 5(1)(c), 7(2)(a)(iv), 8(4), 26(1) and 27(3) of Piedmont Regional Law no. 19 of 29 June 2009 (Consolidated text on the protection of natural areas and biodiversity);

declares unconstitutional Article 7(2)(a)(iii) of Piedmont Regional Law no. 19 of 2009 with respect to the words “protect and”, and Article 7(2)(d)(i) of the same Law with respect to the word “protect”;

rules that the question concerning the constitutionality of Annex B to Piedmont Regional Law no. 19 of 2009 raised with reference to Article 117(2)(s) of the Constitution by the President of the Council of Ministers by the application referred to in the headnote is groundless.

Decided in Rome at the seat of the Constitutional Court, , *Palazzo della Consulta*, on 26 May 2010.

Signed:

Francesco AMIRANTE, President

Paolo MADDALENA, Author of the Judgment

Giuseppe DI PAOLA, Registrar

Filed in the Court Registry on 4 June 2010.

The Director of the Registry

Signed: DI PAOLA