ENE-003073/2019Answer given by Mr Vellaon behalf of the European Commission(29.11.2019)

The rulings concern Article 6 of the Habitats Directive 92/43/EEC[[1]](#footnote-1) as regards authorisation schemes for agricultural activities which cause nitrogen deposition in sites protected by the Directive. The European Court of Justice interpreted Article 6(3) as requiring such an assessment even in the absence of works or ‘intervention in the natural surroundings and landscape’. Thus the scope of project under Article 6(3) is broader than the notion of project in the Environmental Impact Assessment Directive[[2]](#footnote-2) since under the latter a project always includes works or intervention in the natural surroundings and landscape[[3]](#footnote-3).

A decision to increase air traffic may lead to nitrogen deposition and may need to be assessed under Article 6(3) of the Directive. Based on the information available, the Commission cannot assess whether or not the increase of the number of flights to and from Schiphol airport would have required an appropriate assessment. The primary responsibility for correctly implementing EU law lies with Member States. Thus it is for the Dutch competent authorities to ensure on a case by case basis that all authorised projects comply with EU law. In the present case, the competent Dutch authority is the Ministry of Infrastructure and Water Management.

1. Council Directive 92/43/EEC of 21 May 1992 on the conservation of natural habitats and of wild fauna and flora / OJ L 206 of 22.7.1992, p. 7, <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A31992L0043> [↑](#footnote-ref-1)
2. Directive 2014/52/EU of the European Parliament and of the Council of 16 April 2014 amending Directive 2011/92/EU on the assessment of the effects of certain public and private projects on the environment:

   <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex%3A32014L0052> [↑](#footnote-ref-2)
3. Case C-275/09. [↑](#footnote-ref-3)