

Form of order sought

The applicant claims that the Court should:

- annul the decision dated 3 August 2022 (SGS 22/3264) in relation to the request for internal review under Title IV of the Aarhus Regulation in relation to Council Regulation (EU) 2022/515 of 31 March 2022 amending Regulation (EU) 2022/109 fixing for 2022 the fishing opportunities for certain fish stocks and groups of fish stocks applicable in Union waters and for Union fishing vessels in certain non- Union waters (OJ 2022, L 104, p. 1); and,
- order the Council to bear its own costs and pay those incurred by the applicant.

Pleas in law and main arguments

In support of the action, the applicant relies on four pleas in law.

1. First plea in law, alleging a manifest error of law and of assessment as regards the scope of the applicant's access to review rights under the Aarhus Regulation, due to the Council having found that the applicant's pleas that the Council lacked competence and misused its powers in adopting the Amending TAC Regulation were inadmissible for falling outside the scope of Article 10 of the Aarhus Regulation.
2. Second plea in law, alleging manifest errors of law and of assessment as regards essential elements of secondary law and the scope of the Council's competence to set TACs under Article 43(3) TFEU, due to the Council having committed:
 - a manifest error of law as regards the alleged impact of the Trade and Cooperation Agreement on the Council's competence to set TACs in contradiction to the EU's fisheries legislation;
 - manifest errors of law as regards the margin of discretion it has to set fishing opportunities, as limited by the overarching MSY Objective of Article 2(2) of the CFP Basic Regulation; and
 - manifest errors of law and of assessment regarding the limits of its competence under Article 43(3) TFEU.
3. Third plea in law, alleging manifest errors of assessment regarding the Council's obligations to:
 - implement the precautionary approach, as commanded by the 1st and 2nd subparagraphs of Articles 2(2), as well as by Articles 4(1)(8) and 9(2) of the CFP Basic Regulation, and strictly limited by the MSY Objective;
 - implement the ecosystem-based approach as required by Article 2(3) of the CFP Basic Regulation.
4. Fourth plea in law, alleging a manifest error of assessment regarding the misuse of powers committed by the Council when adopting the Council Regulation (EU) 2022/515 of 31 March 2022 amending Regulation (EU) 2022/109 fixing for 2022 the fishing opportunities for certain fish stocks and groups of fish stocks applicable in Union waters and for Union fishing vessels in certain non- Union waters (OJ 2022, L 104, p. 1).

Action brought on 18 October 2022 — Shamalov v Council

(Case T-651/22)

(2022/C 482/35)

Language of the case: French

Parties

Applicant: Kirill Shamalov (Saint Petersburg, Russia) (represented by: A. Genko, lawyer)

Defendant: Council of the European Union

Form of order sought

The applicant claims that the General Court should:

find that his action for annulment is admissible and wellfounded and consequently annul the following acts:

- Council Regulation (EU) No 269/2014 of 17 March 2014 as amended on 8 April 2022 by Implementing Regulation (EU) 2022/581 (OJ 2022 L 110, p. 3) in that it added the applicant to the list of sanctioned persons under number 908;
- Council Decision 2014/145/CFSP of 17 March 2014 as amended on 8 April 2022 by Council Decision (CFSP) 2022/582 of 8 April 2022 (OJ 2022 L 110, p. 55) in that it added the applicant to the list of sanctioned persons under number 908;
- Council Regulation (EU) No 269/2014 of 17 March 2014 as amended on 25 February 2022 by Regulation (EU) 2022/330 (OJ 2022 L 51, p. 1) in that it permits the imposition of sanctions on ‘leading businesspersons or legal persons, entities or bodies involved in economic sectors providing a substantial source of revenue to the Government of the Russian Federation ...’ in so far as it concerns the applicant;
- Council Decision 2014/145/CFSP of 17 March 2014 as amended by Council Decision (CFSP) 2022/329 of 25 February 2022 (OJ 2022 L 50, p. 1) in that its new wording permits the imposition of sanctions on ‘leading businesspersons involved in economic sectors providing a substantial source of revenue to the Government of the Russian Federation ...’ in so far as it concerns the applicant;
- the retention measures and, in particular, Council Implementing Regulation (EU) 2022/1529 (OJ 2022 L 239, p. 1) and Council Decision (CFSP) 2022/1530 (OJ 2022 L 239, p. 149) of 14 September 2022 in so far as they concern the applicant;
- order the Council to pay the costs.

Pleas in law and main arguments

In support of the action, the applicant relies on five pleas in law.

1. First plea in law, alleging error of assessment in three parts. According to the applicant, no evidence presented by the Council meets the requirements of the EU case-law regarding the standard and quality of evidence. The reasoning of the Council does not establish the leading nature of the applicant other than through sweeping assertion. Although the Council was informed that the applicant no longer held high leadership positions, it kept him on the list of sanctioned persons.
2. Second plea in law, alleging lack of reasoning. The applicant claims that the Council did not give any individual, specific and concrete reason capable of classifying the applicant as a leading person.
3. Third plea in law, alleging misuse of powers. The applicant claims that there are multiple indications according to which the Council relied on accusations of nepotism to sanction the applicant, which is not permitted by the standards under which the applicant was sanctioned.
4. Fourth plea in law, alleging the ‘leading businessperson’ criteria is unlawful, in three parts: on the basis of the lack of a sufficient link between the criteria and the objective pursued; on the basis of a breach of the fundamental principles of the European Union and in particular of the principle of equality and non-discrimination; and, finally, on the basis of the infringement of the principle of legal certainty.
5. Fifth plea in law, alleging lack of proof that the applicant is a leading businessperson in the context of a full review of the Council’s decisions concerning individual sanctions.