

Other parties to the proceedings: Council of the European Union, European Commission

Form of order sought

The appellants claim that the Court should:

- quash the judgment of the General Court in case T-163/14;
- uphold the application at first instance and annul the contested regulation in so far as it concerns appellants;
- order the respondent to pay the appellants' costs, and its own costs, both at first instance and on appeal;
- order any other parties to the appeal to pay their own costs;

In the alternative

- quash the judgment of the General Court in case T-163/14;
- refer the case back to the General Court for judgment;
- reserve the costs at first instance and on appeal for final judgment by the General Court;
- order any other parties to the appeal to pay their own costs.

Pleas in law and main arguments

The General Court erred in law by requiring appellants to show an interest in raising the first and second pleas; in any event, the General Court erred in its legal characterization of the facts as the appellants have such an interest.

Action brought on 10 May 2017 — European Commission v Council of the European Union

(Case C-244/17)

(2017/C 239/36)

Language of the case: English

Parties

Applicant: European Commission (represented by: L. Gussetti, P. Aalto, L. Havas, Agents)

Defendant: Council of the European Union

The applicant claims that the Court should:

- annul Council Decision (EU) 2017/477 of 3 March 2017 on the position to be adopted on behalf of the European Union within the Cooperation Council established under the Enhanced Partnership and Cooperation Agreement between the European Union and its Member States, of the one part, and the Republic of Kazakhstan, of the other part as regards the working arrangements of the Cooperation Council, the Cooperation Committee, specialised subcommittees or any other bodies ⁽¹⁾,
- order Council of the European Union to pay the costs.

Pleas in law and main arguments

The Commission argues that the addition of a procedural legal basis under Common Foreign and Security Policy (CFSP), notably Article 31(1) TEU requiring unanimity, violates the Treaty as interpreted in the case law of the Court.

This plea is substantiated by the following arguments:

First, according to established case-law of the Court, a decision based on Article 218(9) TFEU is to be taken by qualified majority, even if one or more of the substantive legal bases would otherwise require unanimity for the conclusion of an international agreement. The addition of any legal basis otherwise aimed at ensuring unanimity has no effect on the procedure by which it was adopted within the Council.

The Council decision adopted under the procedure set out in Article 218(9) TFEU does not aim at supplementing or amending the institutional framework of the agreement or changing its structure and thus cannot be assimilated to the conclusion or amendment of an international agreement, but it is aimed at ensuring its efficient implementation. Such a decision, in accordance with Article 218(8) first subparagraph and Article 218(9), should be adopted by qualified majority. Requiring the adoption of the decision by unanimity is illegal.

Second, as also clarified by the Court's case-law, Article 218 TFEU provides 'a single procedure of general application concerning the negotiation and conclusion of international agreements by the European Union in all the fields of its activity, including the CFSP'. The specific nature of the CFSP is reflected in the fact that the proposal is made jointly by the Commission (on account of the non-CFSP elements) and the High Representative (on account of the CFSP). This, however, cannot change the conclusion that a decision under Article 218(9) TFEU is to be adopted by qualified majority.

A combination of these two strands of case-law leads to the conclusion that not only the negotiation and conclusion of an international agreement, but also the adoption of positions implementing such an agreement is governed by the single procedure provided for in Article 218 TFEU, in that case Article 218(9) TFEU, which provides for decision-making by qualified majority. No further procedural provision may be added. Even if such provision is added by the Council, it cannot have the effect of altering the decision making procedure.

⁽¹⁾ OJ 2017, L 73, p. 15

**Request for a preliminary ruling from the Korkein oikeus (Finland) lodged on 16 May 2017 —
Oikeusministeriö v Denis Raugevicius**

(Case C-247/17)

(2017/C 239/37)

Language of the case: Finnish

Referring court

Korkein oikeus

Parties to the main proceedings

Applicant: Oikeusministeriö

Defendant: Denis Raugevicius

Questions referred

1. Are national provisions on extradition to be assessed with respect to the freedom of movement of nationals of another Member State in the same way regardless of whether the extradition request of a third State on the basis of an extradition convention concerns the enforcement of a custodial sentence or a prosecution as in the *Petruhhin* case? ⁽¹⁾ Is it relevant that the person sought to be extradited, as well as being a citizen of the Union, is a national of the State which has made the request for extradition?