

Action brought on 11 January 2010 — Inuit Tapiriit Kanatami e.a. v Parliament and Council

(Case T-18/10)

(2010/C 100/64)

Language of the case: English

Parties

Applicants: Inuit Tapiriit Kanatami (Ottawa, Canada), Nattivak Hunters & Trappers Association (Qikiqtarjuaq, Canada) Pangnirtung Hunters 'and Trappers' Organisation (Pangnirtung, Canada), Jaypootie Moesesie (Qikiqtarjuaq, Canada), Allen Kooneeliusie (Qikiqtarjuaq, Canada), Toomasie Newkingnak (Qikiqtarjuaq, Canada), David Kuptana (Ulukhaktok, Canada), Karliin Aariak (Iqaluit, Canada), Efstathios Andreas Agathos (Athens, Greece), Canadian Seal Marketing Group (Quebec, Canada), Ta Ma Su Seal Products (Cap-aux-Meules, Canada), Fur Institute of Canada (Ottawa, Canada), NuTan Furs, Inc (Catalina, Canada), Inuit Circumpolar Conference Greenland (ICC) (Nuuk, Canada), Johannes Egede (Nuuk, Canada), Kalaallit Nunaanni Aalisartut Piniartullu Kattuffiat (KNAPK) (Nuuk, Canada) (represented by: J. Bouckaert, M. van der Woude and H. Viaene, lawyers)

Defendants: European Parliament and Council of the European Union

Form of order sought

- declare the action admissible;
- annul Regulation No 1007/2009 pursuant to Article 263 TFUE;
- order the defendants to pay the applicants' costs;
- order the defendants to pay their own costs.

Pleas in law and main arguments

By means of this application the applicants, Inuit seal hunters and trappers, individuals in another way engaged in other activities involving the seal products, organisations representing the interests of Inuit as well as other individuals and companies active in processing of seal products, seek the annulment of Regulation (EC) No 1007/2009 of the European Parliament and of the Council of 16 September 2009 on trade in seal products⁽¹⁾ providing for restrictions on the placing on the market of the European Union of the seal products.

The applicants put forward three pleas in law in support of its claims.

First, the applicants argue that the European Parliament and the Council erred in law when using Article 95 EC (currently Article 114 TFEU) as the legal basis for adopting contested regulation. In this regard, the applicants submit that established case law of the European Court of Justice confirms that measures referred to in Article 95 EC must genuinely have as their object the improvement of the conditions for the establishment and functioning of the internal market and that the mere fact that they have a bearing on its establishment is not sufficient to make Article 95 EC applicable. In the applicants' opinion, the contested regulation does not result in such improvement as required by the European Courts' case law but, on the contrary, it will effectively eliminate any possibility of an internal market in seal products covered by the regulation's scope.

Second, the applicants contend that the defendants erred in law by infringing the principles of subsidiarity and proportionality as enshrined in Article 5 TEU and further elaborated on in the Protocol on the application of the principles of subsidiarity and proportionality. They claim that the defendants do not demonstrate why intervention at the European Union level is required. The applicants point out that only two Member States had already introduced a ban on seal products. Furthermore, they argue that, even if action at European Union level was to meet the subsidiarity requirement, less intrusive measures would have sufficed to meet the stated goals of the regulation. The applicants contest the fact that the defendants opted for a near total ban on seal products, rather than adopting less restrictive alternatives, such as labelling requirements.

Third, the applicants claim that the contested regulation unduly limits the subsistence possibilities of the applicants, relegating their economic activities to traditional hunting methods and subsistence. They contend that, despite this direct interference with their daily way of life, they have never been heard by the Council nor by the Parliament. Moreover, the applicants submit that the defendants did not weigh the interests of the Inuit Community in surviving in the Arctic against the moral convictions of some citizens in the Union and therefore violated the Article I of Protocol No I to the European Convention of Human Rights (ECHR) and Article 8 ECHR, read in light of Articles 9 and 10 ECHR and as explained in the Court's case law, as well as their fundamental right to be heard.

⁽¹⁾ OJ 2009 L 286, p. 36