

Appeal brought on 24 August 2012 by the European Parliament against the judgment of the General Court (Seventh Chamber) delivered on 14 June 2012 in Case T-396/09 Vereniging Milieudefensie, Stichting Stop Luchtverontreiniging Utrecht v Commission

(Case C-402/12 P)

(2013/C 9/43)

Language of the case: Dutch

Parties

Appellant: European Parliament (represented by: L. Visaggio and G. Corstens, Agents)

Other parties to the proceedings: Vereniging Milieudefensie, Stichting Stop Luchtverontreiniging Utrecht, European Commission, Kingdom of the Netherlands, Council of the European Union

Form of order sought

The appellant claims that the Court should:

- set aside the judgment of the General Court (Seventh Chamber) of 14 June 2012 in Case T-396/09;
- rule on the substance of the case and dismiss the action of the applicants at first instance;
- order the applicants at first instance to pay the costs of this appeal.

Pleas in law and main arguments

The Parliament takes the view that the General Court erred in law in finding that it could review the validity of Regulation (EC) No 1367/2006 ⁽¹⁾ in relation to Article 9(3) of the Aarhus Convention ⁽²⁾ even though this provision does not have direct effect. According to the Parliament, this finding of the General Court is based on a fundamentally incorrect interpretation of both the settled case-law on the possibility for individuals to rely on the provisions of an international agreement with the aim of challenging the validity of a European Union act, and of the nature and scope of the international obligations at issue in the present case.

In concrete terms, the General Court applied the case-law flowing from the Fediol ⁽³⁾ and Nakajima ⁽⁴⁾ judgments, but disregarded the fact that this case-law — which moreover has thus far remained confined to an extremely small number of

cases — can be applied only by way of exception and under very specific conditions. In the judgment under appeal, the General Court failed to examine whether these conditions were actually present in this case, and in any event failed to take account of the exceptional nature of that case-law.

⁽¹⁾ Regulation of the European Parliament and of the Council of 6 September 2006 on the application of the provisions of the Aarhus Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters to Community institutions and bodies (OJ 2006 L 264, p. 13).

⁽²⁾ Aarhus Convention of 25 June 1998 on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters, approved by Council Decision 2005/370/EC of 17 February 2005 (OJ 2005 L 124, p. 1).

⁽³⁾ Case 70/87 Fediol v Commission [1989] ECR 1825.

⁽⁴⁾ Case C-69/89 Nakajima v Council [1991] ECR I-2169.

Appeal brought on 27 August 2012 by the European Commission against the judgment of the General Court (Seventh Chamber) delivered on 14 June 2012 in Case T-396/09 Vereniging Milieudefensie, Stichting Stop Luchtverontreiniging Utrecht v Commission

(Case C-403/12 P)

(2013/C 9/44)

Language of the case: Dutch

Parties

Appellant: European Commission (represented by: P. Oliver, J.-P. Keppenne, G. Valero Jordana, P. van Nuffel, Agents)

Other parties to the proceedings: Vereniging Milieudefensie, Stichting Stop Luchtverontreiniging Utrecht, Kingdom of the Netherlands, European Parliament, Council of the European Union

Form of order sought

The appellant claims that the Court should:

- set aside the judgment of the General Court (Seventh Chamber) of 14 June 2012 in Case T-396/09;
- rule on the substance of the case and dismiss the action for annulment of Commission Decision C(2006)6121; and