



Reports of Cases

Joined Cases C-132/14 to C-136/14

European Parliament

and

European Commission

v

Council of the European Union

(Actions for annulment — Regulation (EU) No 1385/2013 — Directive 2013/62/EU — Directive 2013/64/EU — Legal basis — Article 349 TFEU — Outermost regions of the European Union — Amendment of the status of Mayotte with regard to the European Union)

Summary — Judgment of the Court (Grand Chamber), 15 December 2015

EU Treaties — Territorial scope — Outermost regions — Power of the Council to lay down the conditions of application of the Treaties — Limits — Laying down of the conditions of application of acts of secondary legislation — Lawfulness — Postponement of the applicability of provisions of EU law — Lawfulness

(Art. 52 TEU; Arts 349 TFEU and 355 TFEU; Council Decision 2012/419, Art. 2)

It is clear from the wording of Article 349 TFEU that it enables the Council to adopt specific measures designed to take account of the structural social and economic situation of the outermost regions. However, the Council must be able, in accordance with the third paragraph of that article, to put forward matters establishing a connecting factor between the specific measure envisaged and special characteristics and constraints of the outermost region at issue. Furthermore, inasmuch as the first paragraph of Article 349 TFEU, as amended by Article 2 of Decision 2012/419 amending the status of Mayotte with regard to the European Union, provides that the Council is to adopt specific measures aimed, in particular, at laying down the conditions of application of the Treaties to the outermost regions, including common policies, the ‘conditions of application of the Treaties’, within the meaning of that article, must be understood as covering both the conditions relating to the application of primary EU law and those relating to the application of the acts of secondary legislation adopted on the basis of that primary law. In that context, in the absence of detail as to the territorial scope of an act of secondary legislation, its territorial scope must be determined on the basis of Articles 52 TEU and 355 TFEU. Consequently, it follows from the wording and the objectives of Article 349 TFEU and from the scheme of the Treaties that, as regards the outermost regions of the European Union, the territorial scope of the entire *acquis* of EU law is defined in particular by Article 52 TEU read in conjunction with Article 355(1) TFEU and by the measures adopted pursuant to Article 349 TFEU.

In addition, Article 349 TFEU does not restrict the Council’s decision-making power to a particular category of measures. Apart from the fact that the word ‘measure’ covers any type of action that may be carried out by the Council, the use of the words ‘in particular’ in Article 349 TFEU signifies that the authors of the FEU Treaty did not intend to lay down an exhaustive list of the types of measures

that may be adopted on the basis of that article. A limitation concerning the Council's ability to postpone a measure's applicability would be contrary to the objectives pursued by Article 349 TFEU, since there is nothing to preclude postponement of the full applicability of a provision of EU law from proving to be the most appropriate measure for taking account of the structural social and economic situation of an outermost region.

(see paras 66, 69, 71, 72, 75, 76, 78, 81, 82, 84)