



## Reports of Cases

### Case C-361/14 P

**European Commission**  
v  
**Peter McBride and Others**

(Appeal — Resource conservation measures and restructuring of the fisheries sector — Requests for increased safety tonnage — Annulment by the European Union judicature of the decision initially rejecting those requests — Article 266 TFEU — Repeal of the legal basis on which that initial decision was founded — Competence and legal basis to adopt new decisions — Annulment by the General Court of new decisions rejecting the requests — Principle of legal certainty)

Summary — Judgment of the Court (Grand Chamber), 14 June 2016

1. *Actions for annulment — Judgment annulling an act — Measures to comply with a judgment — Repeal of the legal basis enabling a new act to be adopted to replace the act annulled — Possibility of adoption on the basis of Article 266 TFEU — No such possibility — Requirement for a legal basis in force at the date of adoption*

*(Art. 5(2) TEU; Art. 266 TFEU)*

2. *Acts of the institutions — Statement of reasons — Obligation — Scope — Reference to the legal basis of an act*

*(Art. 296 TFEU)*

3. *Actions for annulment — Time limits — Decision not challenged within the prescribed period — Decision final with regard to the addressee — Decision subsequently called into question — Precluded*

*(Art. 263 TFEU)*

4. *Appeal — Grounds of appeal — Inadequate statement of reasons for the judgment — Reliance by the General Court on implied reasoning — Lawfulness — Conditions*

*(Art. 256 TFEU; Statute of the Court of Justice, Arts 36 and 53, first para.)*

1. Under Article 266 TFEU the institution whose act has been declared void by the EU judicature is required to take the necessary measures to comply with the judgment annulling that act. However, prior to the adoption of such measures by the institution whose act has been annulled, the question arises as to the competence of that institution, since the EU institutions may only act within the limits of the powers conferred on them. In that regard, the obligation to act which follows from Article 266 TFEU is not a source of competence for the institution concerned, nor does it permit that institution to rely on a legal basis which has in the meantime been repealed.

In addition, although it is necessary — in order to comply with the principles governing the temporal application of the law and because of the requirements relating to the principles of legal certainty and the protection of legitimate expectations — to apply the substantive rules in force at the date of the facts in issue even if those rules are no longer in force when an EU institution adopts an act, the provision which forms the legal basis of an act and empowers the EU institution to adopt the act in question must, by contrast, be in force when the act is adopted. Similarly, the procedure for adopting that act must be carried out in accordance with the rules in force at the time of adoption. In that regard, it is not possible, by means of the application of general principles of EU law, for an institution to use an expired legal base, so as to enable it to apply a substantive rule, as the basis for a decision, following the annulment by the EU judicature of the initial decision.

(see paras 35, 36, 38, 40, 45)

2. See the text of the decision.

(see paras 47, 48)

3. A decision which has not been challenged by the addressee within the period prescribed by Article 263 TFEU becomes definitive in his regard. Thus, the principle of legal certainty requires that where such a decision is favourable to the addressee or has become definitive, its validity is not affected by a judgment of the EU judicature concerning other decisions.

(see paras 55, 56)

4. See the text of the decision.

(see para. 61)