

As regards the first ground of appeal, the appellant alleges that the General Court infringed the rights of the defence and in particular his right to a fair hearing, in that:

- it held that the late notification by the Council of the European Union, without the appellant being able to submit his observations before the decision at issue renewing the restrictive measures, was not an infringement of the right to a fair hearing since it was not new evidence; and
- it did not draw the appropriate conclusions from the fact that the Council did not, in the present case, undertake any investigation.

Concerning the second ground of appeal, the appellant maintains that the General Court committed a manifest error of assessment, in that:

- it did not take into account that restrictive measures are precautionary and, by definition, provisional, their validity always depending on whether the factual and legal circumstances which led to their adoption continue to apply and on the need to continue them in order to achieve their objective;
- it did not find that the evidence adduced by the Council was in any way capable of substantiating any conduct falling within the test for inclusion in the disputed lists, namely acts constituting serious human rights violations; and
- it did not criticise the fact that the Council did not examine the evidence submitted by the appellant in the review procedure and did not undertake, on that basis, its own investigations.

(¹) Council Regulation (EC) No 1183/2005 of 18 July 2005 imposing certain specific restrictive measures directed against persons acting in violation of the arms embargo with regard to the Democratic Republic of the Congo, OJ 2005 L 193, p. 1 (ES, CS, DA, DE, ET, EL, EN, FR, IT, LV, LT, HU, NL, PL, PT, SK, SL, FI, SV), OJ 2008 L 352 M, p. 231 (MT).

Action brought on 22 April 2021 — European Parliament v Council of the European Union

(Case C-259/21)

(2021/C 217/46)

Language of the case: French

Parties

Applicant: European Parliament (represented by: I. Liukkonen, I. Terwinghe, acting as Agents)

Defendant: Council of the European Union

Form of order sought

The applicant claims that the Court should:

- annul Articles 15 to 17, 20 and 59(2) of Council Regulation (EU) 2021/92 of 28 January 2021 fixing for 2021 the fishing opportunities for certain fish stocks and groups of fish stocks, applicable in Union waters and, for Union fishing vessels, in certain non-Union waters; (¹)
- order the Council to pay the costs.

Pleas in law and main arguments

According to the Parliament, the legislative acts governing the matter, namely Articles 10(4) and 15 of Regulation (EU) 2019/1241 (²) and Article 9 of Regulation (EU) 2019/472 (³) provide that measures such as those referred to in the present action are to be adopted by delegated acts referred to in Article 290 TFEU.

In support of its action, the Parliament therefore raises four pleas in law. The first alleges that there was a breach and misuse of procedure in that the contested measures should have been introduced by means of the delegated acts referred to in Article 290 TFEU and not by the procedure laid down in Article 43(3) TFEU. The second alleges a breach of sincere cooperation in contravention of Article 13(2) TEU. By adopting the contested provisions by a procedure other than that provided for for that purpose in acts which it co-drafted, the Council denied the Parliament the right of examination to which it would have been entitled had the proper procedure been used.

⁽¹⁾ OJ 2021, L 31, p. 31.

⁽²⁾ Regulation (EU) 2019/1241 of the European Parliament and of the Council of 20 June 2019 on the conservation of fisheries resources and the protection of marine ecosystems through technical measures, amending Council Regulations (EC) No 1967/2006, (EC) No 1224/2009 and Regulations (EU) No 1380/2013, (EU) 2016/1139, (EU) 2018/973, (EU) 2019/472 and (EU) 2019/1022 of the European Parliament and of the Council, and repealing Council Regulations (EC) No 894/97, (EC) No 850/98, (EC) No 2549/2000, (EC) No 254/2002, (EC) No 812/2004 and (EC) No 2187/2005 (OJ 2019 L 198, p. 105).

⁽³⁾ Regulation (EU) 2019/472 of the European Parliament and of the Council of 19 March 2019 establishing a multiannual plan for stocks fished in the Western Waters and adjacent waters, and for fisheries exploiting those stocks, amending Regulations (EU) 2016/1139 and (EU) 2018/973, and repealing Council Regulations (EC) No 811/2004, (EC) No 2166/2005, (EC) No 388/2006, (EC) No 509/2007 and (EC) No 1300/2008 (OJ 2019, L 83, p. 1).