



Reports of Cases

Judgment of the General Court (Fifth Chamber) of 27 February 2013 — Bloufin Touna Ellas Naftiki Etaireia and Others v Commission

(Case T-367/10)

(Fisheries — Conservation of fish stocks — Recovery plan for bluefin tuna — Measures prohibiting fishing activities of purse seiners flying the flag of France or Greece — Actions for annulment — Regulatory act not entailing implementing measures — Whether directly concerned — Admissibility — Rate of exhaustion of quotas per State and per purse seiner — True catch capacity)

1. *Actions for annulment — Natural or legal persons — Meaning of ‘regulatory act’ in Article 263, fourth paragraph, TFEU — Any act of general scope for legislative measures — Commission regulation prohibiting the fishing of red tuna by purse seiners flying the French or Greek flag — Included — Act not containing implementing measures within the meaning of that provision of the Treaty (Art. 263, fourth para., TFEU; Council Regulation No 1224/2009, Art. 36(2); Commission Regulation No 498/2010) (see paras 17-22)*
2. *Actions for annulment — Natural or legal persons — Interest in bringing proceedings — Action against a Commission regulation prohibiting the fishing of red tuna by purse seiners flying the French or Greek flag — Quota allocated to those seiners not exhausted on the day of the closure of red tuna fishing — Substantial reduction of the quota initially allocated by reason of that closure — Interest in bringing proceedings maintained — Admissibility (Art. 263, fourth para., TFEU; Commission Regulation No 498/2010) (see paras 24-29)*
3. *Fisheries — Conservation of the resources of the sea — Measures prohibiting the fishing of red tuna by purse seiners flying the French or Greek flag — Discrimination arising from the early halting of fishing on the same date for Greek, Spanish and French seiners and from the adoption of prohibition measures on different dates — Treatment based on the actual capacity of seiners to capture red tuna and on a calculation of fishing for red tuna despite the adoption of measures on different dates — Same date of prohibition of fishing for red tuna despite the adoption of measures on different rates — Principle of non-discrimination — No infringement (Commission Regulations No 498/2010 and No 508/2010) (see paras 32, 33, 38-45, 47, 49, 51, 53, 54, 57-60)*
4. *Fisheries — Conservation of the resources of the sea — Measures prohibiting the fishing of red tuna by purse seiners flying the French or Greek flag — Principle of proportionality — Breach of the limits of the wide discretion of the EU legislature — Judicial review — Limits (Council Regulation No 1224/2009; Commission Regulation No 498/2010) (see paras 63-66)*
5. *Actions for annulment — Contested act — Assessment of lawfulness — Criteria (Art. 263 TFEU) (see para. 70)*

Re:

ANNULMENT of Commission Regulation (EU) No 498/2010 of 9 June 2010 prohibiting fishing activities for purse seiners flying the flag of France or Greece or registered in France or Greece, fishing for bluefin tuna in the Atlantic Ocean, east of longitude 45°W, and in the Mediterranean Sea (OJ 2010 L 142, p. 1).

Operative part

The Court:

1. Dismisses the action;
2. Orders Bloufin Touna Ellas Naftiki Etaireia, Chrisderic and André Sébastien Fortassier to pay the costs.