



## Reports of Cases

JUDGMENT OF THE COURT (Fourth Chamber)

16 April 2015 \*

(Action for annulment — Police and judicial cooperation in criminal matters — New psychoactive substance subjected to control measures — Determination of legal basis — Legal framework applicable following the entry into force of the Treaty of Lisbon — Transitional provisions — Secondary legal basis — Consultation of Parliament)

In Joined Cases C-317/13 and C-679/13,

ACTIONS FOR ANNULMENT under Article 263 TFEU, brought on 7 June and 19 December 2013, respectively,

**European Parliament**, represented by F. Drexler, A. Caiola and M. Pencheva, acting as Agents, with an address for service in Luxembourg,

applicant,

v

**Council of the European Union**, represented by K. Pleśniak and A.F. Jensen, acting as Agents,

defendant,

supported by:

**Republic of Austria**, represented by C. Pesendorfer, acting as Agent,

intervener,

THE COURT (Fourth Chamber),

composed of L. Bay Larsen (Rapporteur), President of the Chamber, K. Jürimäe, J. Malenovský, M. Safjan and A. Prechal, Judges,

Advocate General: N. Wahl,

Registrar: V. Tourrès, Administrator,

having regard to the written procedure and further to the hearing on 5 November 2014,

after hearing the Opinion of the Advocate General at the sitting on 22 January 2015,

gives the following

\* Language of the case: French.

## Judgment

- 1 By its applications in Cases C-317/13 and C-679/13, the European Parliament seeks the annulment of Council Decision 2013/129/EU of 7 March 2013 on subjecting 4-methylamphetamine to control measures (OJ 2013 L 72, p. 11) and Council Decision 2013/496/EU of 7 October 2013 on subjecting 5-(2-aminopropyl)indole to control measures (OJ 2013 L 272, p. 44) (together, ‘the contested decisions’), respectively.

### Legal context

- 2 Recital 14 in the preamble to Council Decision 2005/387/JHA of 10 May 2005 on the information exchange, risk-assessment and control of new psychoactive substances (OJ 2005 L 127, p. 32) is worded as follows:

‘In conformity with Article 34(2)(c) [EU], measures based upon this Decision can be taken by qualified majority as these measures are necessary to implement this Decision.’

- 3 Article 1 of that decision provides as follows:

‘This Decision establishes a mechanism for a rapid exchange of information on new psychoactive substances. ...

This Decision also provides for an assessment of the risks associated with these new psychoactive substances in order to permit the measures applicable in the Member States for control of narcotic and psychotropic substances to be applied also to new psychoactive substances.’

- 4 Article 6 of Decision 2005/387 provides that the Council of the European Union may request an assessment report on the risks associated with a new psychoactive substance.

- 5 Under the heading ‘Procedure for bringing specific new psychoactive substances under control’, Article 8 of Decision 2005/387 is worded as follows:

‘1. Within six weeks from the date on which it received the Risk Assessment Report, the Commission shall present to the Council an initiative to have the new psychoactive substance subjected to control measures. ...

2. Should the Commission deem it not necessary to present an initiative on submitting the new psychoactive substance to control measures, such an initiative may be presented to the Council by one or more Member States, preferably not later than six weeks from the date on which the Commission presented its report to the Council.

3. The Council shall decide, by qualified majority and acting on an initiative presented pursuant to paragraph 1 or 2, on the basis of Article 34(2)(c) [EU], whether to submit the new psychoactive substance to control measures.’

### The contested decisions

- 6 Decision 2013/129, which refers to the TFEU and Decision 2005/387, in particular Article 8(3) of that decision, provides in Article 1 thereof that the new psychoactive substance 4-methylamphetamine is to be subjected to control measures across the Union.

- 7 Article 2 of that decision provides that, by 17 March 2014, Member States are to take the necessary measures to subject that substance to control measures and criminal penalties, as provided for under their legislation.
- 8 Decision 2013/496, which also refers to the TFEU and Decision 2005/387, in particular Article 8(3) of that decision, states in Article 1 thereof that the new psychoactive substance 5-(2-aminopropyl)indole is to be subjected to control measures across the Union.
- 9 Article 2 of that decision provides that, by 13 October 2014, Member States are to take the necessary measures to subject that substance to control measures and criminal penalties, as provided for under their legislation.

### **Forms of order sought by the parties and the procedure before the Court**

- 10 The Parliament claims that the Court should:
- annul the contested decisions;
  - maintain the effects of those decisions until they are replaced by new acts, and
  - order the Council to pay the costs.
- 11 The Council contends that the Court should:
- dismiss the actions as unfounded;
  - reject as inadmissible or, at the very least, as unfounded the plea raised in these actions that Decision 2005/387 is unlawful;
  - in the alternative, in the event that the Court annuls the contested decisions, maintain their effects until they are replaced by new acts, and
  - order the Parliament to pay the costs.
- 12 By decision of the President of the Court of 27 March 2014, Cases C-317/13 and C-679/13 were joined for the purposes of the oral procedure and judgment.
- 13 By decisions of the President of the Court of 8 October 2013 and 28 April 2014, the Republic of Austria was granted leave to intervene in support of the form of order sought by the Council in Cases C-317/13 and C-679/13.

### **The applications**

- 14 The Parliament relies on two pleas in law in support of its applications, alleging, respectively, that a repealed or invalid legal basis was chosen and breach of an essential procedural requirements, on the ground that the Parliament did not participate in the procedure for the adoption of the contested decisions.

*Admissibility of certain pleas or arguments relied on by the Parliament in Case C-679/13*

Arguments of the parties

- 15 The Council is of the view that some of the pleas or arguments relied on by the Parliament in Case C-679/13 must be rejected as inadmissible as they lack clarity and precision. That applies in so far as concerns the pleas or arguments relating to the application of Article 39(1) EU, the choice of a repealed legal basis, the breach of the principles of legal certainty and institutional balance and the claim that the contested decisions altered an essential element of Decision 2005/387.
- 16 The Parliament submits that the application initiating proceedings in Case C-679/13 is sufficiently clear and precise. With regard, in particular, to the claim that the contested decisions alter an essential element of Decision 2005/387, the Parliament states that it is not necessary to decide whether that is the case because that is, in any event, of no consequence as regards the procedure that should have been followed for the adoption of Decision 2013/496.

Findings of the Court

- 17 It should be noted that, under Article 120(c) of the Court's Rules of Procedure and the case-law relating thereto, an application initiating proceedings must state the subject-matter of the dispute, the pleas in law and arguments relied on and a summary of the pleas in law on which the application is based. That statement must be sufficiently clear and precise to enable the defendant to prepare his defence and the Court to rule on the application. It is therefore necessary for the essential points of law and of fact on which a case is based to be indicated coherently and intelligibly in the application itself and for the heads of claim to be set out unambiguously so that the Court does not rule *ultra petita* or fail to rule on a claim (see, to that effect, judgment in *United Kingdom v Council*, C-209/13, EU:C:2014:283, paragraph 30 and the case-law cited).
- 18 In the present case, the presentation of the first three pleas in law or arguments in the application in Case C-679/13, which, according to the Council, are not sufficiently clear and precise, fulfils those criteria. It has, in particular, enabled the Council to formulate a defence in response to those pleas or argument and places the Court in a position in which it can exercise judicial review of Decision 2013/496.
- 19 With regard to the last of the Parliament's pleas or arguments, it should be noted, in any event, that the Parliament accepted in its reply that the question whether Decision 2013/496 is lawful does not depend on whether that argument is well founded. It follows that it is not a plea or argument on which the Court is required to adjudicate.
- 20 It follows from the foregoing that the plea of inadmissibility alleging that certain aspects of the application in Case C-679/13 are insufficiently clear and precise must be rejected.
- 21 Accordingly, since it is the legal basis of a measure that determines the procedures to be followed in adopting that measure (judgments in *Parliament v Council*, C-130/10, EU:C:2012:472, paragraph 80, and *Parliament v Council*, C-658/11, EU:C:2014:2025, paragraph 57), it is appropriate to examine in the first place the first plea in Case C-317/13 and the second plea in Case C-679/13, alleging that a repealed or invalid legal basis was chosen.

*The first plea in Case C-317/13 and the second plea in Case C-679/13, alleging that a repealed or invalid legal basis was chosen*

The first part of the first plea in Case C-317/13 and of the second plea in Case C-679/13, alleging that a repealed legal basis was chosen

– Arguments of the parties

- 22 The Parliament maintains that the reference to the FEU Treaty in the contested decisions is too general for it to be able to serve as a legal basis for the decisions and that Article 8(3) of Decision 2005/387 cannot be regarded as a genuine legal basis.
- 23 That provision simply refers to Article 34(2)(c) EU, which would have constituted the only possible legal basis for the adoption of implementing measures under the former ‘third pillar’.
- 24 As a consequence, the legal basis used by the Council is, according to the Parliament, Article 34(2)(c) EU. As that provision was repealed by the Treaty of Lisbon, it may no longer be used as the legal basis for the adoption of new acts. The fact that a measure of secondary law refers to Article 34 EU is irrelevant in that regard, since that provision must be regarded as having been rendered inapplicable as a result of the entry into force of that treaty.
- 25 The Council states that it adopted the contested decisions on the basis of Article 8(3) of Decision 2005/387, read in conjunction with Article 9 of Protocol (No 36) on Transitional Provisions (‘the Protocol on Transitional Provisions’). It observes in that regard that the contested decisions refer neither to the EU Treaty in general nor to Article 34(2)(c) EU in particular.
- 26 The Council also contends that, following the repeal of Article 34 EU, the reference to that article in Article 8(3) of Decision 2005/387 no longer has any legal effects and that the latter provision has become an autonomous legal basis conferring implementing powers on the Council.

– Findings of the Court

- 27 For the purpose of determining whether the first part of the first plea in Case C-317/13 and the second plea in Case C-679/13 are well founded, it is necessary to establish the legal basis on which the contested decisions were adopted.
- 28 It must be noted that those decisions do not refer to Article 34 EU and that in their recital they refer expressly to the FEU Treaty and to Article 8(3) of Decision 2005/387 as the legal bases.
- 29 It cannot therefore be concluded, having regard to the text of the contested decisions, which must, in principle, if they are to satisfy the obligation to state reasons, indicate the legal basis on which they are founded (see, to that effect, judgment in *Commission v Council*, C-370/07, EU:C:2009:590, paragraphs 39 and 55), that those decisions are based on Article 34 EU.
- 30 Moreover, it should be noted that there is nothing else in the contested decisions to indicate that the Council intended to use Article 34 EU as the legal basis of those decisions.
- 31 In particular, the reference in Article 8(3) of Decision 2005/387 to Article 34(2)(c) EU is, in that regard, irrelevant, in so far as the Council’s explicit choice not to refer to that provision in the contested decisions but instead to the FEU Treaty and to Article 8(3) of Decision 2005/387 indicates clearly that the contested decisions are based on the latter provision itself.

- 32 It follows that the repeal of Article 34 EU by the Treaty of Lisbon does not have the effect of depriving the contested decisions of a legal basis.
- 33 In the light of the foregoing, the first part of the first plea in Case C-317/13 and the second plea in Case C-679/13 must be rejected as unfounded.

The second part of the first plea in Case C-317/13 and of the second plea in Case C-679/13, alleging that legal basis chosen was invalid

– Arguments of the parties

- 34 The Parliament considers that, if the Court were to conclude that Article 8(3) of Decision 2005/387 was the legal basis of the contested decisions, that provision would constitute an invalid secondary legal basis and cannot form a proper basis for those decisions.
- 35 It is apparent from the Court's case-law that the creation of a secondary legal basis which eases the detailed rules for the adoption of an act is incompatible with the Treaties. That applies to Article 8(3) of Decision 2005/387, since it does not provide that the Parliament is to be consulted, whereas that requirement would have been imposed by Article 39 EU for the purpose of adopting a measure for the implementation of that decision.
- 36 Moreover, Article 8(3) of Decision 2005/387 became inapplicable following the entry into force of the Treaty of Lisbon and introduces an unlawful exception to the procedure established by that treaty for the adoption of new acts. Such an exception is not permitted under Article 9 of the Protocol on Transitional Provisions, which merely provides that acts under the former 'third pillar' are not automatically repealed by the entry into force of that treaty.
- 37 The Council contends, as its principle argument, that the Parliament's plea that Article 8(3) of Decision 2005/387 is unlawful is inadmissible. It submits that, under Article 10(1) of the Protocol on Transitional Provisions, the powers enjoyed by the Court in relation to that decision remained, until 1 December 2014, the same as those which existed before the entry into force of the Treaty of Lisbon. Article 35(6) EU, which was applicable at that time, did not confer power on the Parliament to bring an action for annulment of an act adopted under the former 'third pillar', such as that decision. It follows from the fact that the Court did not have jurisdiction in that regard that the Parliament's plea of illegality must be rejected as inadmissible.
- 38 The Council submits, in the alternative, that Article 8(3) of Decision 2005/387 complied with the EU Treaty when it was adopted. That provision merely provides for the application of the procedure laid down in Article 34(2)(c) EU and did not, therefore, introduce a *sui generis* procedure under which there is no requirement to consult the Parliament.
- 39 With regard to the effects of the entry into force of the Treaty of Lisbon, the Council maintains that the interpretation of Article 9 of the Protocol on Transitional Provisions advocated by the Parliament would create an insuperable barrier to the adoption of any implementing measures provided for in acts under the former 'third pillar', which is precisely the situation which the authors of the Treaties wished to avoid.



– Findings of the Court

- 40 According to settled case-law of the Court, the choice of legal basis for a European Union measure must rest on objective factors that are amenable to judicial review; these include the aim and content of that measure (judgment in *Commission v Parliament and Council*, C-43/12, EU:C:2014:298, paragraph 29 and the case-law cited).
- 41 It should be noted in that regard that there is no dispute between the parties as to the relationship between Article 8(3) of Decision 2005/387 and the aim or content of the contested decisions. On the other hand, the Parliament contends that that provision is unlawful on the ground that it eases the detailed rules for the adoption of the measures for the implementation of Decision 2005/387 by comparison with the procedure laid down in the Treaties for the purpose.
- 42 According to the Court's case-law, as the rules regarding the manner in which the EU institutions arrive at their decisions are laid down in the Treaties and are not within the discretion of the Member States or of the institutions themselves, the Treaties alone may, in particular cases, empower an institution to amend a decision-making procedure established by the Treaties. Accordingly, to acknowledge that an institution can establish secondary legal bases, whether for the purpose of strengthening or easing the detailed rules for the adoption of an act, is tantamount to according that institution a legislative power which exceeds that provided for by the Treaties (see judgment in *Parliament v Council*, C-133/06, EU:C:2008:257, paragraphs 54 to 56).
- 43 That approach, which was adopted by the Court in the judgment in *Parliament v Council* (C-133/06, EU:C:2008:257) in relation to a secondary legal basis for the adoption of legislative acts, must also be applied to the legal bases provided for in secondary legislation which make it possible to adopt measures for the implementation of that legislation by strengthening or easing the detailed rules for the adoption of such measures laid down in the Treaties.
- 44 While it is true that the Treaties provide that the Parliament and the Council lay down some of the rules relating to the exercise by the Commission of its powers of implementation, the fact nevertheless remains that the specific rules relating to the adoption of implementing measures laid down in the Treaties are binding on the institutions on the same footing as the rules relating to the adoption of legislative acts and cannot therefore be negated by acts of secondary legislation.
- 45 In that context, given that the legality of an EU measure must be assessed on the basis of the facts and the law as they stood at the time when the measure was adopted (see, by analogy, judgments in *Gualtieri v Commission*, C-485/08 P, EU:C:2010:188, paragraph 26; *Schindler Holding and Others v Commission*, C-501/11 P, EU:C:2013:522, paragraph 31; and *Schaible*, C-101/12, EU:C:2013:661, paragraph 50), the legality of Article 8(3) of Decision 2005/387 must be assessed in the light of the provisions that governed, at the time that decision was adopted, the implementation of general acts in the field of police and judicial cooperation in criminal matters, namely Article 34(2)(c) EU and Article 39(1) EU.
- 46 It follows from those provisions that the Council, acting by qualified majority and after consulting the Parliament, enacts the measures necessary for the implementation of the decisions adopted in connection with the title relating to police and judicial cooperation in criminal matters.
- 47 In that regard, it should be pointed out that the literal wording of Article 8(3) of Decision 2005/387 does not impose an obligation on the Council to consult the Parliament before adopting the measures for the implementation of that decision set out in that provision.
- 48 None the less, it is established case-law that the wording of secondary EU legislation must be interpreted, in so far as possible, in a manner consistent with the provisions of the Treaties (judgment in *Efir*, C-19/12, EU:C:2013:148, paragraph 34 and the case-law cited).

- 49 Accordingly, given, first, that the requirement to interpret secondary legislation in compliance with primary law follows from the general principle of interpretation that a provision must be interpreted, as far as possible, in such a way as not to affect its validity (see, to that effect, judgments in *Sturgeon and Others*, C-402/07 and C-432/07, EU:C:2009:716, paragraphs 47 and 48, and review of *Commission v Strack*, C-579/12 RX-II, EU:C:2013:570, paragraph 40), and, second, that the legality of Article 8(3) of Decision 2005/387 must be assessed, for the reasons set out in paragraph 45 above, in particular in the light of Article 39(1) EU, the former provision must be interpreted in a manner consistent with the latter.
- 50 As a consequence, Article 8(3) of Decision 2005/387 must be interpreted, in accordance with Article 39(1) EU, as permitting the Council to adopt an act for the purpose of submitting a new psychoactive substance to control measures only after it has consulted the Parliament. It follows that the Parliament's argument that the fact that the former provision does not specify that it must be consulted implies that it introduces rules for the adoption of implementing measures that are slacker by comparison with the rules under the procedure laid down for that purpose in the EU Treaty must be rejected.
- 51 With regard to the Parliament's arguments to the effect that Article 8(3) of Decision 2005/387 is incompatible with the rules of procedure applicable after the entry into force of the Treaty of Lisbon, it should be noted, in any event, that the Protocol on Transitional Provisions includes provisions dealing specifically with the legal rules applicable, following the entry into force of that treaty, to acts adopted on the basis of the EU Treaty before that date.
- 52 Accordingly, Article 9 of that protocol provides that the legal effects of such acts are to be preserved until those acts are repealed, annulled or amended in implementation of the Treaties.
- 53 That article must be interpreted in the light of the first recital in the preamble to that protocol, which states that it is necessary to lay down transitional provisions in order to organise the transition from the institutional provisions of the Treaties applicable prior to the entry into force of the Treaty of Lisbon to the provisions contained in that Treaty.
- 54 Accordingly, given that the Treaty of Lisbon substantially altered the institutional framework for police and judicial cooperation in criminal matters, Article 9 of the Protocol on Transitional Provisions must be understood, as observed by the Advocate General at point 45 of his Opinion, as being intended, inter alia, to ensure that acts adopted in the context of that cooperation may continue to be applied effectively notwithstanding the change to the institutional framework for such cooperation.
- 55 If the Parliament's argument were accepted that the repeal by the Treaty of Lisbon of specific procedures for the adoption of implementing measures in the field of police and judicial cooperation in criminal matters would make it impossible to adopt such measures before general acts adopted in connection with that cooperation had been amended so as to adapt them to the Treaty of Lisbon, that would have the effect of complicating or even preventing the effective application of such acts, thus jeopardising the attainment of the objectives pursued by the authors of the Treaty.
- 56 Furthermore, the interpretation of Article 9 of the Protocol on Transitional Provisions advocated by the Parliament, to the effect that that article merely implies that acts in the field of police and judicial cooperation in criminal matters are not automatically repealed following the entry into force of the Treaty of Lisbon, would deprive that article of any practical effect.
- 57 It follows from the foregoing that a provision of an act duly adopted on the basis of the EU Treaty before the entry into force of the Treaty of Lisbon which lays down detailed rules for the adoption of measures for the implementation of that act continues to produce its legal effects until it is repealed, annulled or amended and permits the adoption of implementing measures in accordance with a procedure established by that provision.



58 In those circumstances, the fact that Article 8(3) of Decision 2005/387 might lay down detailed rules for the adoption of implementing measures that are strengthened or eased by comparison with the procedure laid down for that purpose in the FEU Treaty cannot mean that that provision constitutes an invalid secondary legal basis which should be disapplied following a plea of illegality.

59 As a consequence and in those circumstances, without there being any need to rule on the admissibility of the second part of the first plea in Case C-317/13 or of the second plea in Case C-679/13, the second part of those pleas must be rejected as unfounded (see, by analogy, judgments in *France v Commission*, C-233/02, EU:C:2004:173, paragraph 26, and *Komninou and Others v Commission*, C-167/06 P, EU:C:2007:633, paragraph 32), and those pleas must therefore be rejected in their entirety.

*The second plea in Case C-317/13 and the first plea in Case C-679/13, alleging breach of an essential procedural requirement*

#### Arguments of the parties

60 The Parliament submits that, in the event that it is found that the rules in force prior to the Treaty of Lisbon remain applicable in the present case, it should be consulted pursuant to Article 39(1) EU.

61 On the other hand, the Council takes the view that Article 8(3) of Decision 2005/387 does not require any participation by the Parliament in the adoption of the contested decisions and that, following the repeal of Article 39 EU by the Treaty of Lisbon, there is no longer any need to consult the Parliament for the purpose of adopting measures for the implementation of that decision.

62 Article 10(1) of the Protocol on Transitional Provisions would appear to confirm that analysis, in so far as it does not cite Article 39 EU as one of the provisions whose effects are to be maintained after the entry into force of the Treaty of Lisbon. Moreover, if a requirement to consult the Parliament were included as part of the adoption procedure, that would in effect add to the procedure laid down in Article 291 TFEU an element not provided for in that article and would thus jeopardise the institutional balance established by the Treaty of Lisbon.

#### Findings of the Court

63 It should be noted that due consultation of the Parliament in the cases provided by the applicable rules of EU law constitutes an essential procedural requirement, disregard of which renders the measure concerned void (see, to that effect, judgments in *Parliament v Council*, C-65/93, EU:C:1995:91, paragraph 21, and *Parliament v Council*, C-417/93, EU:C:1995:127, paragraph 9).

64 As a consequence, since it follows from the response given to the first plea in Case C-317/13 and the second plea in Case C-679/13 that the Council could legitimately base the contested decisions on Article 8(3) of Decision 2005/387, it is necessary to determine whether the Parliament must be consulted before an act based on that provision is adopted.

65 It is apparent from the considerations set out at paragraphs 50 to 57 above that Article 8(3) of Decision 2005/387, interpreted in accordance with Article 39(1) EU, continues to produce its legal effects until it is repealed, annulled or amended and permits the adoption of implementing measures in accordance with a procedure established by that provision. Therefore, the Council is required to consult the Parliament before submitting a new psychoactive substance to control measures.

66 Contrary to the Council's submissions, the repeal of Article 39(1) EU by the Treaty of Lisbon cannot alter that requirement to consult the Parliament.

- 67 In the light of the considerations set out at paragraph 49 above, the repeal of Article 39(1) EU after the adoption of Article 8(3) of Decision 2005/387 cannot remove the requirement to interpret that provision in accordance with Article 39(1) EU.
- 68 Similarly, the fact that Article 291 TFEU does not lay down any obligation to consult the Parliament is irrelevant, as the requirement to consult the Parliament is one of the legal effects of Decision 2005/387 which is maintained after the entry into force of the Treaty of Lisbon pursuant to Article 9 of the Protocol on Transitional Provisions, as interpreted at paragraph 57 above.
- 69 It is common ground that the contested decisions were adopted by the Council without prior consultation of the Parliament.
- 70 It follows that the second plea in Case C-317/13 and the first plea in Case C-679/13 are well founded and that the contested decisions must, therefore, be declared void.

*The request to maintain the effects of the contested decisions*

- 71 Both the Parliament and the Council have requested the Court to maintain, in the event that it should annul the contested decisions, the effects of those decisions until they are replaced by new acts.
- 72 In that regard, it must be borne in mind that, under the second paragraph of Article 264 TFEU, the Court may, if it considers it necessary to do so, state which of the effects of an act that it has declared void are to be considered as definitive.
- 73 In the present case, to declare the contested decisions void without providing that their effects are to be maintained could undermine the effectiveness of the control of the psychoactive substances concerned by those decisions and, therefore, the protection of public health. While the Parliament seeks the annulment of those decisions on the ground of breach of an essential procedural requirement, it does not contest the purpose or content of the decisions.
- 74 It is therefore necessary to maintain the effects of the contested decisions until the entry into force of new acts intended to replace them.

**Costs**

- 75 Under Article 138(1) of the Rules of Procedure of the Court of Justice, the unsuccessful party must be ordered to pay the costs if they have been applied for in the other party's pleadings. Since the Parliament has applied for the Council to be ordered to pay the costs and the Council has been unsuccessful, the Council must be ordered to pay the costs.
- 76 In accordance with Article 140(1) of those Rules, the Republic of Austria must bear its own costs.

On those grounds, the Court (Fourth Chamber) hereby:

- 1. Annuls Council Decision 2013/129/EU of 7 March 2013 on subjecting 4-methylamphetamine to control measures and Council Decision 2013/496/EU of 7 October 2013 on subjecting 5-(2-aminopropyl)indole to control measures;**
- 2. Declares that the effects of Decision 2013/129 and Decision 2013/496 are to be maintained until the entry into force of new acts intended to replace them;**
- 3. Orders the Council of the European Union to pay the costs;**

**4. Orders the Republic of Austria to bear its own costs.**

[Signatures]