



Press and Information

General Court of the European Union

PRESS RELEASE No 46/16

Luxembourg, 27 April 2016

Judgment in Case T-316/13

Salvatore Aniello Pappalardo and Others v Commission

The General Court dismisses the action for damages brought by Italian fishermen following the Commission's early ban on bluefin tuna fishing in 2008

Although Italian fishermen, in the same way as Cypriot, French, Greek and Maltese fishermen, were discriminated against vis-à-vis Spanish fishermen by reason of the fact that Spanish fishermen were allowed to fish for an extra week, that breach of the principle of non-discrimination is not sufficiently serious for the EU to incur non-contractual liability

Mr Salvatore Aniello Pappalardo and a number of Italian companies own vessels authorised to fish for bluefin tuna with seine nets. Fishing quotas were allocated to them for the year 2008. By a 2008 regulation,¹ the Commission decided that bluefin tuna fishing, normally authorised until 30 June 2008, would be prohibited from 16 June 2008 for seiners flying the flags of Greece, France, Italy, Cyprus and Malta and from 23 June 2008 for those flying the flag of Spain. That difference in treatment led the Court of Justice in 2011 to annul that regulation on the ground that it breached the principle of non-discrimination.² Mr Pappalardo and the companies then brought an action for damages before the General Court, by which they claim more than €6.5 million by way of compensation for damage allegedly suffered.

In today's judgment, the General Court points out that, in order for the EU to incur non-contractual liability, a number of conditions must be satisfied: (1) the conduct of which the institutions are accused must have been unlawful; (2) there must be real and certain damage; and (3) a direct causal link must exist between the conduct of the institution concerned and the alleged damage. With regard to the condition relating to unlawful conduct, the Court points out that the infringement of EU law alleged must be sufficiently serious, that is to say, the institution in question (in this case, the Commission) must have disregarded, in a manifest and serious way, the limits imposed on its discretion.

In that regard, the Court notes that **the imposition of two different dates for the ban on fishing** for Greek, French, Italian, Cypriot and Maltese seiners, on the one hand, and for Spanish seiners, on the other, **does not, in itself, constitute a manifest breach of the principle of non-discrimination**. The 2008 regulation addresses the general-interest objective of averting a serious threat to the conservation and recovery of the bluefin tuna stock in the Eastern Atlantic and the Mediterranean,³ and not that of protecting the prerogatives linked to the economic activity of fishing enjoyed by certain seiners vis-à-vis others. Furthermore, the Court notes that Spanish seiners, although given an extra week of fishing in comparison with other seiners, were themselves also compelled to stop fishing before the end of the normal period, namely before 30 June 2008.

¹ Commission Regulation (EC) No 530/2008 of 12 June 2008 establishing emergency measures as regards purse seiners fishing for bluefin tuna in the Atlantic Ocean, east of longitude 45° W, and in the Mediterranean Sea (OJ 2008 L 155, p. 9).

²Case: [C-221/09](#) AJD Tuna, see Press Release No [22/11](#).

³Case: [C-611/12 P](#) Giordano v Commission and Joined Cases [C-12/13 P](#) and [C-13/13 P](#) in Buono and Others v Commission and Syndicat des thoniers méditerranéens and Others v Commission, see Press Release No [137/14](#): the Commission did not act unlawfully by prohibiting French fishermen in 2008 from fishing for bluefin tuna before the end of the validity of fishing licences.

NOTE: An appeal, limited to points of law only, may be brought before the Court of Justice against the decision of the General Court within two months of notification of the decision.

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The [full text](#) of the judgment is published on the CURIA website on the day of delivery

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