



According to Advocate General Kokott, the General Court was right to reject the action which the Inuit had brought against the ban on trade in seal products in the EU as being inadmissible

The General Court was right in finding that the easing in the Lisbon Treaty of the conditions for individuals to bring actions before the European courts against EU acts of general application does not apply to legislative acts

A body representing the interests of the Canadian Inuit¹ and producers of and traders in seal products ask the EU Courts to annul the general ban on trade in seal products in the EU, which the EU legislature, namely the Parliament and the Council, imposed in September 2009 in the form of a Regulation². Only the import and sale of seal products which result from hunts traditionally conducted by Inuit and other indigenous communities and contribute to their subsistence are – together with two further exceptions – excluded from this ban.

The centre of interest in the present case is the question whether the Inuit and their co-appellants are at all entitled to bring a direct action against that regulation before the EU courts. In support of their action the appellants rely in particular on an amendment introduced by the Lisbon Treaty which enables natural and legal persons to bring an action for annulment also against a 'regulatory act which is of direct concern to them and does not entail implementing measures (Article 263 TFEU).'

By order of 6 September 2011 the General Court dismissed their action as being inadmissible³. In the Court's view, the appellants could not contest the regulation in dispute on the basis of the amendment to the Lisbon Treaty as it did not apply to legislative acts such as the act at issue.

The appellants brought an appeal against that order before the Court of Justice. **In her Opinion, delivered today, Advocate General Kokott proposes that the Court dismiss the appeal.**

She states that the General Court was right to find that the appellants did not have standing to bring an action. In particular, the Advocate General shares the General Court's view that **a legislative act such as the Parliament and Council regulation at issue cannot be regarded as a regulatory act. The less strict conditions in the Lisbon Treaty under which individuals may bring actions before the EU Courts against such EU acts of general application do not therefore apply to the present case.**

The Lisbon Treaty did indeed seek to broaden the right for natural and legal persons to bring actions against EU acts of general application. However, the scheme of the Lisbon Treaty as well as its drafting history indicate that for actions against legislative acts, which enjoy a particularly high democratic legitimisation, the classical requirements⁴ should continue to apply. Accordingly

¹ The Inuit are an indigenous ethnic group who live primarily in the arctic and subarctic regions of central and north-eastern Canada, in Alaska, in Greenland and in parts of Russia.

² Regulation (EC) No 1007/2009 of the European Parliament and of the Council of 16 September 2009 on trade in seal products (OJ 2009 L 286, p. 36).

³ Order in Case [T-18/10 Inuit Tapiriit Kanatami and Others v Parliament and Council](#).

⁴ Namely of direct and individual concern.

there is also **no gap in legal protection**, as an indirect challenge against any unlawfulness of the legislative act could be made in the context of an action before the EU Courts against implementing measures of an EU body⁵, or an action against a national implementing measure before a national court. The less strict conditions in the Lisbon Treaty for individuals to bring an action against EU acts of general application is therefore not devoid of substance, since by no means all EU law regulations, directives and decisions are adopted under the legislative procedure.

NOTE: The Advocate General's Opinion is not binding on the Court of Justice. It is the role of the Advocates General to propose to the Court, in complete independence, a legal solution to the cases for which they are responsible. The Judges of the Court are now beginning their deliberations in this case. Judgment will be given at a later date.

NOTE: An appeal, on a point or points of law only, may be brought before the Court of Justice against a judgment or order of the General Court. In principle, the appeal does not have suspensive effect. If the appeal is admissible and well founded, the Court of Justice sets aside the judgment of the General Court. Where the state of the proceedings so permits, the Court of Justice may itself give final judgment in the case. Otherwise, it refers the case back to the General Court, which is bound by the decision given by the Court of Justice on the appeal.

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

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⁵ The Inuit Tapiriit Kanatami and most of their co-appellants also lodged an action for annulment against Commission Implementing Regulation No 737/2010 (pending Case [T-526/10](#)).