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Judgments of the General Court in Cases T-681/22 | Spain v Commission and T-781/22 | Madre Querida and Others v Commission

The actions brought against the Commission's determination of areas to be protected in certain deep-sea fishing grounds where vulnerable marine ecosystems are known to occur or are likely to occur are dismissed

Those actions had been brought by Spain and by a number of entities active in the field of fishing

The European Union ensures the conservation and sustainable exploitation of marine biological resources. ¹ In that context, measures were taken concerning the sustainable fishing of species in deep-sea habitats. ² In implementation of those measures, the European Commission adopted a regulation establishing a list of deep-sea fishing areas where vulnerable marine ecosystems are known to occur or are likely to occur ³ in the Union waters of the north-east Atlantic. ⁴ Fishing with bottom gears ⁵ is prohibited in those areas.

Spain (Case T-681/22) and a number of entities comprising fishers from Galicia and Asturias (Case T-781/22) challenged the Commission's designation of those areas before the General Court of the European Union.

In its judgments, **the General Court dismisses the actions.**

The General Court emphasises first of all that **classification** as an area where vulnerable marine ecosystems are known to occur or are likely to occur is based on the **proven or probable presence of protected species** and **on the characteristics of the ecosystem itself**. The area is in that way protected against the significant adverse impacts of bottom gears in general. The Commission was therefore not obliged to assess the fragility of the ecosystems in the light of each type of gear used (in particular of passive bottom gears, such as demersal longlines, which are used by the applicant fishers) or to evaluate the consequences of the conservation measures on fishing activities and on economic and social life.

Next, the General Court holds that **it has not been established that the Commission clearly exceeded its discretion** when, in determining the areas, it used a particular **methodology** proposed in the relevant advice of the **International Council for the Exploration of the Sea (ICES)**. Nor has it been proven that the methodology followed was not appropriate, that it did not contribute to the protection objective being pursued or that a different methodology would have been more effective in defining those areas.

Last, **the General Court rejects the claims concerning the unlawfulness of the legislative act that provides for adoption of the contested regulation**. That act did not unlawfully attribute powers to the Commission to supplement essential elements of the protection system by means of an implementing act. Nor did it infringe either the rules of the Common Fisheries Policy or the principle of proportionality by indiscriminately prohibiting fishing with bottom gears in all the designated areas. First, the prohibition does not apply to fishing with bottom gears at a depth of 400 metres or above. Second, Spain and the applicant fishers have not shown that passive gears are free of adverse impacts, and it therefore cannot be ruled out that those gears may pose a risk to vulnerable marine ecosystems.

NOTE: An action for annulment seeks the annulment of acts of the institutions of the European Union that are contrary to EU law. The Member States, the European institutions and individuals may, under certain conditions, bring an action for annulment before the Court of Justice or the General Court, as the case may be. If the action is well founded, the act is annulled. The institution concerned must fill any legal vacuum created by the annulment of the act.

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 and ten days of notification of the decision.

Unofficial document for media use, not binding on the General Court.

The full text and, as the case may be, an abstract of the judgments ([T-681/22](#) and [T-781/22](#)) is published on the CURIA website on the day of delivery.

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¹ [Regulation \(EU\) No 1380/2013](#) of the European Parliament and of the Council of 11 December 2013 on the Common Fisheries Policy, amending Council Regulations (EC) No 1954/2003 and (EC) No 1224/2009 and repealing Council Regulations (EC) No 2371/2002 and (EC) No 639/2004 and Council Decision 2004/585/EC.

² [Regulation \(EU\) 2016/2336](#) of the European Parliament and of the Council of 14 December 2016 establishing specific conditions for fishing for deep-sea stocks in the north-east Atlantic and provisions for fishing in international waters of the north-east Atlantic and repealing Council Regulation (EC) No 2347/2002.

³ According to [Regulation \(EC\) No 734/2008](#) of 15 July 2008 on the protection of vulnerable marine ecosystems in the high seas from the adverse impacts of bottom fishing gears, those ecosystems include, for example, reefs, seamounts, hydrothermal vents, cold water corals and cold water sponge beds.

⁴ [Commission Implementing Regulation \(EU\) 2022/1614](#) of 15 September 2022 determining the existing deep-sea fishing areas and establishing a list of areas where vulnerable marine ecosystems are known to occur or are likely to occur.

⁵ According to Regulation 734/2008, bottom gears are gears deployed in the normal course of fishing operations in contact with the seabed, including bottom trawls, dredges, bottom-set gill nets, bottom-set longlines, pots and traps. Trawls are mobile gears which are towed in the marine environment, whereas passive gears (such as longlines) are fixed at a specific point of the marine environment.