



Press and Information

General Court of the European Union

**PRESS RELEASE No 55/13**

Luxembourg, 25 April 2013

Judgment in Case T-526/10

Inuit Tapiriit Kanatami and Others v Commission

## **The General Court confirms the validity of the Regulation on the marketing of seal products**

*The legislature has harmonised the rules to prevent disturbance of the EU market*

EU law<sup>1</sup> protects the fundamental economic and social interests of Inuit communities which hunt seals as an integral part of their culture and identity. To that end it authorises the placing on the market of seal products only where those products result from hunts traditionally conducted by such indigenous communities for the purpose of their subsistence.

In that connection, it prohibits the placing on the EU market and, consequently, the import of seal products intended to be placed on that market, but authorises the entry, warehousing, processing or manufacture of seal products in the EU if they are intended for export and are never released for free circulation in the EU. Similarly, it authorises the import of such products where it is of an occasional nature and concerns exclusively goods for personal use (and not for commercial purposes) and where they result from by-products of hunting that is regulated by national law and conducted for the purpose of the sustainable management of marine resources.

When the basic regulation and its implementing measures were being prepared, Inuit communities were consulted in order to take account of their particular situation as referred to in the United Nations Declaration on the Rights of Indigenous Peoples.

Before the General Court, Inuit Tapiriit Kanatami, an association which represents the interests of Canadian Inuits, and a number of other parties (manufacturers and traders of seal products of various nationalities)<sup>2</sup>, take issue with the regulation implementing<sup>3</sup> the basic regulation. They rely on a plea of the illegality of the basic regulation, which, they argue, deprives the implementing regulation of any legal basis. In particular, they point out that the principal objective of the basic regulation is the protection of animal welfare and that such an objective does not fall within the exclusive competence of the EU.

In today's judgment, the General Court points out, first of all, that the basic regulation is intended to **improve the conditions for the establishment and functioning of the internal market by laying down harmonised rules for the placing on the market of seal products**. The regulation was thus adopted on a correct legal basis<sup>4</sup> by the EU legislature under the ordinary legislative procedure. The EU legislature may have recourse to that procedure in particular where there are differences between national rules which are such as to obstruct the fundamental freedoms and thus have a direct effect on the functioning of the internal market.

The General Court goes on to observe that, in response to concern and pressure from citizens concerned about animal welfare, several Member States had adopted or were in the process of

<sup>1</sup> Regulation (EC) No 1007/2009 of 16 September 2009 on trade in seal products (OJ 2009 L 286, p. 36). That regulation was the subject of a first action (Case [T-18/10 Inuit Tapiriit Kanatami and Others v Parliament and Council](#)) which was dismissed as inadmissible by the General Court. That order is now under appeal (Case [C-583/11 P](#)).

<sup>2</sup> See details of the applicants in the [full text](#) of the judgment.

<sup>3</sup> Regulation (EU) No 737/2010 laying down detailed rules for the implementation of the basic regulation (OJ 2010 L 216, p. 1).

<sup>4</sup> Following Article 95 EC (Now Article 114 TFEU).

adopting legislative measures aimed at restricting or banning economic activity linked to the production of seal products. Consequently, the coexistence within the EU of different commercial conditions resulted in a fragmentation of the internal market.

The EU legislature took the view that, in the absence of action at EU level, obstacles to trade would arise. It therefore took action in order to harmonise the rules and thus prevent the disturbance of the internal market in seal products. Taking into account animal welfare considerations, it adopted measures to reduce the demand leading to the marketing of seal products and, hence, the commercial hunting of seals. Moreover, by reassuring consumers that seal products are no longer marketed in the EU (apart from those which result from hunts by Inuits for the purposes of subsistence), the legislature also eliminated obstacles to the free movement of alternative products (not derived from seals) which are impossible to distinguish from original products (derived from seals) which are similar.

Furthermore, the General Court points out that the legislature took care to ensure that the fundamental economic and social interests of Inuit communities engaged in the hunting of seals as a means to ensure their subsistence were not adversely affected. For that reason, the regulations provided for an exception to the ban on the placing on the market of seal products, where those products resulted from seal hunting by Inuit communities and other indigenous communities for the purposes of subsistence.

The General Court confirms that the objective of the basic regulation, which is **the improvement of the conditions of functioning of the internal market, taking into account the protection of animal welfare**, cannot be satisfactorily achieved by action undertaken only in the Member States and **requires action at EU level**.

The General Court points out that, at the time of the adoption of the basic regulation, the existing differences between the national provisions governing trade in seal products were likely to grow further.

Finally, in response to the applicants who pleaded the impairment of their right to property insofar as it relates to seals caught, the General Court points out that the basic regulation does not prohibit the placing on the market of seal products derived from traditional forms of hunting.

Moreover, the applicants, who are of very different origins and, for the most part, do not belong to the Inuit community, have not demonstrated the effects on their right to property in relation to the different categories into which they fall. The General Court held, in line with the case-law of the Court of Justice, that the guarantees accorded by the right to property cannot be extended to protect mere commercial interests or opportunities, the uncertainties of which are part of the very essence of economic activity.

**On those grounds, the General Court dismisses the action.**

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**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.

**NOTE:** An action for annulment seeks the annulment of acts of the institutions of the European Union that are contrary to European Union 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. 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.

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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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