



Press and Information

Court of Justice of the European Union
PRESS RELEASE No 93/15
Luxembourg, 3 September 2015

Judgment in Case C-398/13 P
Inuit Tapiriit Kanatami and Others v Commission

The Court of Justice confirms the validity of the regulation on trade in seal products

The EU legislature could legitimately adopt that regulation in response to the divergences existing between national rules on the marketing of seal products

The regulation on trade in seal products ('the basic regulation')¹ protects the fundamental economic and social interests of Inuit communities which engage in the hunting of seals as an integral part of their culture and identity. On that basis, it in principle allows seal products to be placed on the EU market only where they result from hunts which are traditionally conducted by those communities and contribute to their subsistence.

Inuit Tapiriit Kanatami, an association which represents the interests of Canadian Inuits, and a number of other associations and individuals (seal product manufacturers and traders of various nationalities) contested the regulation implementing the basic regulation² before the General Court. They contended that the basic regulation was unlawful, depriving the implementing regulation of any legal basis.

By its judgment of 25 April 2013,³ the General Court dismissed the action brought by Inuit Tapiriit Kanatami and the other associations and individuals. The unsuccessful parties then brought an appeal against the General Court's judgment before the Court of Justice.

By today's judgment, the Court **dismisses the appeal in its entirety**.

Firstly, the Court finds that the General Court was correct in holding that the legality of the basic regulation must be assessed on the basis of the facts and the law as they stood at the time when it was adopted, so that, contrary to the submissions of Inuit Tapiriit Kanatami and the other associations and individuals, the date of the Commission's proposal for a regulation is not relevant in that regard. In an action challenging a legislative measure, such as the basic regulation, it is not that proposal, liable to be amended during the legislative procedure, whose lawfulness is reviewed by the EU judicature, but the legislative measure as adopted at the end of that procedure by the EU legislature.

Secondly, the Court states that the appellants are wrong in maintaining both that the considerations in the preamble to the basic regulation are not sufficient to justify recourse to Article 95 EC and that the General Court could not take into account the information provided by the Commission during the judicial proceedings. The Court points out that the statement of reasons for a measure of general application may be confined to indicating the general situation which led to its adoption and the general objectives which it is intended to achieve. Thus, in this instance, the EU legislature could, correctly, confine itself to only setting out generally the divergences existing between the national rules on the marketing of seal products and the resulting adverse effect on

¹Regulation (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). That regulation was contested in an initial action ([T-18/10](#)), which the General Court dismissed as inadmissible by order of 6 September 2011. An appeal ([C-583/11 P](#)) was brought against that order before the Court of Justice, which dismissed it by judgment of 3 October 2013 (see press release [123/13](#)).

²Regulation (EU) No 737/2010 of 10 August 2010 laying down detailed rules for the implementation of Regulation (EC) No 1007/2009 (OJ 2010 L 216, p. 1).

³Case [T-526/10](#), Inuit Tapiriit Kanatami and Others v Commission see press release [55/13](#).

the operation of the internal market (an adverse effect which, according to the legislature, justified the adoption of the basic regulation). In particular, the legislature was not required to specify the number and identity of the Member States whose national rules are the source of the measure adopted. Since the statement of reasons for the basic regulation is, in itself, sufficient, the General Court cannot be criticised for having taken into consideration during its examination the supplementary information, submitted by the Commission during the judicial proceedings, relating to the situation regarding the legislation of the Member States that led to the adoption of that regulation.

The Court also states that, on the basis of the information resulting both from the statement of reasons for the basic regulation and from the clarification provided by the Commission, which the appellants have not contested before the Court, the General Court was able to find that on the date on which the basic regulation was adopted there were differences between national provisions governing trade in seal products that were such as to impede the free movement of the products concerned. Accordingly, the General Court was correct in concluding that those differences could justify the intervention of the EU legislature on the basis of Article 95 EC, as that provision indeed allows the legislature to adopt, with a view to harmonising the internal rules of the Member States, measures having as their object the establishing and functioning of the internal market.

Thirdly, the Court points out that the protection of the right to property afforded by the Charter of Fundamental Rights of the EU applies not to mere commercial interests or opportunities, but to rights with an asset value creating an established legal position enabling the holder to exercise those rights autonomously and for his benefit. The Court finds that the appellants have pleaded only the mere possibility of being able to market seal products in the EU, and have not specified the rights which the basic regulation is said to compromise.

Fourthly, the Court holds that, since Article 19 of the United Nations Declaration on the Rights of Indigenous Peoples,⁴ which encourages members of the United Nations to obtain the prior consent of those peoples before adopting or implementing measures that may affect them, does not, in itself, have binding legal force, the basic regulation does not involve any obligation to comply with that provision.

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 judgment is published on the CURIA website on the day of delivery.

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⁴ United Nations Declaration on the Rights of Indigenous Peoples, adopted by the United Nations General Assembly by resolution 61/295 of 13 September 2007.