

Case C-583/11 P Inuit [2013]

Facts: Inuit and other entities brought an action for the annulment of a Regulation harmonizing rules on the placing on the market of seal products. The General Court considered that the term “regulatory act” used in the third limb of the fourth paragraph of Article 263 TFEU, which allows applicants to bring an action for annulment if it is of direct concern to them and does not entail implementing measures, covered all acts of general application, apart from legislative acts. As the contested Regulation was a legislative act, the applicants could bring the action for its annulment if it was not only of direct concern to them (which would be enough under the third limb) but also of individual concern to them (as requested under the second limb). Those appellants that were considered directly concerned were so in the same way as any other trader who places seal products on the market, which was not sufficient to distinguish them individually in the same way as the addressee of a decision. Therefore, the General Court declared the action inadmissible. The applicants appealed before the Court of Justice.

Held: The scope of the concept of “regulatory act” used in the third limb of the fourth paragraph of Article 263 TFEU is more restricted than that of “acts” used in the first and second limbs. It cannot refer to all acts of general application, because this would nullify the distinction made between the term “acts” and “regulatory acts”. Its purpose is to enable to bring actions for annulment of acts of general application other than legislative acts under less stringent conditions, since the admissibility is not subject to the condition of individual concern. This interpretation does not create a gap in judicial protection: natural or legal persons can still bring a direct action before the Courts of the European Union against implementing measures of the European Union institutions and to plead the illegality of the general act at issue, or plead the invalidity of the European Union act at issue before the national courts where its implementation is a matter for the Member States and cause the latter to request a preliminary ruling from the Court of Justice. Natural or legal persons are individually concerned if the contested act affects them by reasons of certain attributes which are peculiar to them or by reasons of circumstances in which they are differentiated from all other persons, and by virtue of these factors distinguishes them individually just as in the case of the person addressed. The conditions that the legislative act of which annulment is sought should be of direct concern and individual concern are cumulative. As the prohibition on the placing of seal products on the market laid down in the contested regulation is worded in general terms and applies indiscriminately to any trader falling within its scope, the appeal must be dismissed.