JUDGMENT OF THE COURT (Grand Chamber)

3 October 2013

(Appeal – Regulation (EC) No 1007/2009 – Trade in seal products – Restrictions on importing and marketing such products – Action for annulment – Admissibility – Right of natural or legal persons to institute proceedings – Fourth paragraph of Article 263 TFEU – Concept of 'regulatory act' – Legislative act – Fundamental right to effective judicial protection)

In Case C-583/11 P,

APPEAL under Article 56 of the Statute of the Court of Justice of the European Union, brought on 21 November 2011,

Inuit Tapiriit Kanatami, established in Ottawa (Canada),

Nattivak Hunters and Trappers Association, established in Qikiqtarjuaq (Canada),

Pangnirtung Hunters' and Trappers' Association, established in Pangnirtung (Canada),

Jaypootie Moesesie, residing in Qikiqtarjuaq,

Allen Kooneeliusie, residing in Qikiqtarjuaq,

Toomasie Newkingnak, residing in Qikiqtarjuaq,

David Kuptana, residing in Ulukhaktok (Canada),

Karliin Aariak, residing in Iqaluit (Canada),

Canadian Seal Marketing Group, established in Quebec (Canada),

Ta Ma Su Seal Products, Inc., established in Cap-aux-Meules (Canada),

Fur Institute of Canada, established in Ottawa,

NuTan Furs, Inc., established in Catalina (Canada),

GC Rieber Skinn AS, established in Bergen (Norway),

Inuit Circumpolar Council Greenland (ICC-Greenland),established in Nuuk, Greenland (Denmark),

Johannes Egede, residing in Nuuk,

Kalaallit Nunaanni Aalisartut Piniartullu Kattuffiat (KNAPK),established in Nuuk,

represented by J. Bouckaert, H. Viaene and D. Gillet, avocats,

appellants,

the other parties to the proceedings being:

European Parliament, represented by I. Anagnostopoulou, D. Gauci and L. Visaggio, acting as Agents,

Council of the European Union, represented by M. Moore and K. Michoel, acting as Agents,

defendants at first instance,

supported by:

European Commission, represented by P. Oliver, E. White and K. Mifsud-Bonnici, acting as Agents,

Kingdom of the Netherlands,

interveners at first instance,

THE COURT (Grand Chamber),

composed of K. Lenaerts, Vice-President, acting as President, A. Tizzano, R. Silva de Lapuerta, T. von Danwitz (Rapporteur), A. Rosas and M. Berger, Presidents of Chambers, U. Lõhmus, E. Levits, A. Ó Caoimh, A. Arabadjiev, J.-J. Kasel, M. Safjan, D. Šváby, A. Prechal and C. Vajda, Judges

Advocate General: J. Kokott,

Registrar: V. Tourrès, Administrator,

having regard to the written procedure and further to the hearing on 20 November 2012,

after hearing the Opinion of the Advocate General at the sitting on 17 January 2013,

gives the following

Judgment

1 By their appeal, Inuit Tapiriit Kanatami, Nattivak Hunters and Trappers Association, Pangnirtung Hunters' and Trappers' Association, Mr Moesesie, Mr Kooneeliusie, Mr Newkingnak, Mr Kuptana, Ms Aariak, Canadian Seal Marketing Group, Ta Ma Su Seal Products, Inc., Fur Institute of Canada, NuTan Furs, Inc., GC Rieber Skinn AS, Inuit Circumpolar Council Greenland (ICC-Greenland), Mr Egede and Kalaallit Nunaanni Aalisartut Piniartullu Kattuffiat (KNAPK) request that the Court set aside the order of the General Court of the European Union of 6 September 2011 in Case T-18/10 [2011] ECR II-5599 ('the order under appeal'), whereby the General Court dismissed the action brought by the appellants and by Mr Agathos for the annulment of 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, 'the contested regulation') as being inadmissible.

Legal context

The contested regulation

2 According to Article 1 of the contested regulation, its subject matter is the establishment of 'harmonised rules concerning the placing on the market of seal products'.

3 Under Article 2(4) of the contested regulation, 'Inuit' means 'indigenous members of the Inuit homeland, namely those arctic and subarctic areas where, presently or traditionally, Inuit have aboriginal rights and interests, recognised by Inuit as being members of their people and includes Inupiat, Yupik (Alaska), Inuit, Inuvialuit (Canada), Kalaallit (Greenland) and Yupik (Russia)'.

4 As regards the conditions for placing seal products on the market, Article 3 of that regulation provides:

'1. The placing on the market of seal products shall be allowed only where the seal products result from hunts traditionally conducted by Inuit and other indigenous communities and contribute to their subsistence. These conditions shall apply at the time or point of import for imported products.

2. By way of derogation from paragraph 1:

(a) the import of seal products shall also be allowed where it is of an occasional nature and consists exclusively of goods for the personal use of travellers or their families. The nature and quantity of such goods shall not be such as to indicate that they are being imported for commercial reasons;

(b) the placing on the market of seal products shall also be allowed where the seal products result from by-products of hunting that is regulated by national law and conducted for the sole purpose of the sustainable management of marine resources. Such placing on the market shall be allowed only on a non-profit basis. The nature and quantity of the seal products shall not be such as to indicate that they are being placed on the market for commercial reasons.

The application of this paragraph shall not undermine the achievement of the objective of this Regulation.

3. The Commission shall, in accordance with the management procedure referred to in Article 5(2), issue technical guidance notes setting out an indicative list of the codes of the Combined Nomenclature which may cover seal products subject to this Article.

4. Without prejudice to paragraph 3, measures for the implementation of this Article, designed to amend non-essential elements of this Regulation by supplementing it, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 5(3).'

Regulation (EU) No 737/2010

5 On the basis of Article 3(4) of the contested regulation, the Commission adopted Regulation (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).

6 That regulation, according to Article 1 thereof, 'lays down detailed rules for the placing on the market of seal products pursuant to Article 3 of Regulation (EC) No 1007/2009'.

The procedure before the General Court and the order under appeal

7 By application lodged at the Registry of the General Court on 11 January 2010, the appellants and Mr Agathos brought an action for the annulment of the contested regulation.

8 The European Parliament and the Council of the European Union each raised an objection of inadmissibility, under Article 114(1) of the Rules of Procedure of the General Court. The Kingdom of the Netherlands and the Commission were granted leave to intervene before the General Court in support of the forms of order of the Parliament and the Council.

9 The General Court upheld that objection in holding that the appellants and Mr Agathos did not satisfy the conditions of admissibility for the purposes of the fourth paragraph of Article 263 TFEU.

10 First, the General Court held that, although the contested regulation was adopted on the basis of the EC Treaty, the conditions of admissibility of the action, which was brought after the entry into force of the FEU Treaty, have to be examined on the basis of Article 263 TFEU.

11 The General Court then examined the admissibility of the action before it. In that context, it first assessed the concept of 'regulatory act' within the meaning of the fourth paragraph of Article 263 TFEU. In that regard, the General Court undertook a literal, historical and teleological interpretation of that provision and made the following findings in paragraphs 41 to 51 of the order under appeal:

'41 In the first place and as a reminder, the fourth paragraph of Article 230 EC allowed natural and legal persons to institute proceedings against decisions as acts of individual application and against acts of general application such as a regulation which is of direct concern to those persons and affects them by reason of certain attributes peculiar to them, or by reason of a factual situation which differentiates them from all other persons and distinguishes them individually in the same way as the addressee of a decision (see, to that effect, Case 25/62*Plaumann* v *Commission* [1963] ECR 95, 107, and Case C-50/00 P *Unión de Pequeños Agricultores* v *Council* [2002] ECR I-6677, paragraph 36).

42 The fourth paragraph of Article 263 TFEU, even though it omits the word 'decision' reproduces those two possibilities and adds a third. It permits the institution of proceedings against individual acts, against acts of general application which are of direct and individual concern to a natural or legal person and against a regulatory act which is of direct concern to them and does not entail implementing measures. It is apparent from the ordinary meaning of the word 'regulatory' that the acts covered by that third possibility are also of general application.

43 Against that background, it is clear that that possibility does not relate to all acts of general application, but to a more restricted category, namely regulatory acts.

44 The first paragraph of Article 263 TFEU sets out a number of categories of acts of the European Union which may be subject to a review of legality, namely, first, legislative acts and, secondly, other binding acts intended to produce legal effects vis-à-vis third parties, which may be individual acts or acts of general application.

45 It must be concluded that the fourth paragraph of Article 263 TFEU, read in conjunction with its first paragraph, permits a natural or legal person to institute proceedings against an act addressed to that person and also (i) against a legislative or regulatory act of general application which is of direct and individual concern to them and (ii) against certain acts of general application, namely regulatory acts which are of direct concern to them and do not entail implementing measures.

46 Furthermore, such an interpretation of the word "regulatory", and of the equivalent word in the different language versions of the FEU Treaty, as opposed to the word "legislative", is also apparent from a number of other provisions of the FEU Treaty, in particular Article 114 TFEU, concerning the approximation of the "provisions laid down by law, regulation or administrative action in Member States".

47 In that regard, it is necessary to reject the … argument [of the appellants and Mr Agathos] that the distinction between legislative and regulatory acts, as proposed by the Parliament and the Council and upheld in paragraphs 42 to 45 above, consists of adding the qualifier "legislative" to the word "act" with reference to the first two possibilities covered by the fourth paragraph of Article 263 TFEU. As is apparent from the conclusion drawn in paragraph 45 above, the word "act" with reference to those first two possibilities covers not only an act addressed to the natural or legal person, but also any act, legislative or regulatory, which is of direct and individual concern to them. In particular, legislative acts and regulatory acts entailing implementing measures are covered by that latter possibility.

48 Furthermore, it must be stated that, contrary to the … claim [of the appellants and Mr Agathos], it is apparent from the wording of the final part of the fourth paragraph of Article 263 TFEU that the objective of the Member States was not to limit the scope of that provision solely to delegated acts within the meaning of Article 290 TFEU, but more generally, to regulatory acts.

49 In the second place, the interpretation of the fourth paragraph of Article 263 TFEU upheld in paragraphs 42 to 45 above is borne out by the history of the process which led to the adoption of that provision, which had initially been proposed as [Article III-365(4) of the proposed] treaty establishing a Constitution

for Europe. It is apparent, inter alia from the cover note of the Praesidium of the Convention (Secretariat of the European Convention, CONV 734/03) of 12 May 2003, that, in spite of the proposal for an amendment to the fourth paragraph of Article 230 EC mentioning "an act of general application", the Praesidium adopted another option, that mentioning "a regulatory act". As is apparent from the cover note referred to above, that wording enabled "a distinction to be made between legislative acts and regulatory acts, maintaining a restrictive approach in relation to actions by individuals against legislative acts (for which the 'of direct and individual concern' condition remains applicable)".

50 In the third place, on account of the choice of such wording in the fourth paragraph of Article 263 TFEU, it must be observed that the purpose of that provision is to allow a natural or legal person to institute proceedings against an act of general application which is not a legislative act, which is of direct concern to them and does not entail implementing measures, thereby avoiding the situation in which such a person would have to infringe the law to have access to the court (see cover note of the Praesidium of the Convention, referred to above). As is apparent from the analysis in the preceding paragraphs, the wording of the fourth paragraph of Article 263 TFEU does not allow proceedings to be instituted against all acts which satisfy the criteria of direct concern and which are not implementing measures or against all acts of general application which satisfy those criteria, but only against a specific category of acts of general application, namely regulatory acts. Consequently, the conditions of admissibility of an action for annulment of a legislative act are still more restrictive than in the case of proceedings instituted against a regulatory act.

51 That finding cannot be called into question by the … argument [of the appellants and Mr Agathos] relating to the right to effective judicial protection, inter alia having regard to Article 47 of the Charter of Fundamental Rights of the European Union (OJ 2007 C 303, p. 1 ['the Charter']). According to settled case-law, the Courts of the European Union may not, without exceeding their jurisdiction, interpret the conditions under which an individual may institute proceedings against a regulation in a way which has the effect of setting aside those conditions, expressly laid down in the Treaty, even in the light of the principle of effective judicial protection (see, to that effect, Case C-263/02 P *Commission* v *Jégo-Quéré* [2004] ECR I-3425, paragraph 36, and order of 9 January 2007 in Case T-127/05 *Lootus Teine Osaühing* v *Council*, not published in the ECR, paragraph 50).'

12 The General Court concluded, in paragraph 56 of the order under appeal, that 'the meaning of "regulatory act" for the purposes of the fourth paragraph of Article 263 TFEU must be understood as covering all acts of general application apart from legislative acts'. Consequently, a legislative act may form the subject matter of an action for annulment brought by a natural or legal person only if it is of direct and individual concern to them.

13 Secondly, the General Court, in paragraphs 57 to 67, examined the issue of whether the contested regulation is to be categorised as a legislative act or as a regulatory act. In that regard, the General Court held, in paragraph 61 of the order under appeal, that the procedure defined in Article 294 TFEU and known as the 'ordinary legislative procedure', reproduces, in essence, the procedure defined in Article 251 EC. The General Court concluded, in that paragraph, that the contested regulation, which was adopted according to the procedure covered in Article 251 EC, must, within the categories of legal acts provided for by the FEU Treaty, be categorised as a legislative act. In paragraph 65 of the order under appeal, the General Court found that, in this case, the criterion relevant to the categorisation of an act as a legislative act or as a regulatory act is the procedure which led to its adoption.

14 In the light of the interpretation of the concept of 'regulatory act' for the purposes of the fourth paragraph of Article 263 TFEU, adopted in paragraphs 41 to 56 of the order under appeal, and the conclusion that the contested regulation is not a regulatory act within the meaning of that article, the General Court concluded that the action could not be declared to be admissible on the basis of the third limb of the fourth paragraph of Article 263 TFEU. In those circumstances, there was no need to determine whether the contested regulation entails implementing measures.

15 Third, the General Court examined, in paragraphs 68 to 87 of the order under appeal, the issue of whether the appellants and Mr Agathos are directly concerned by the contested regulation.

16 In that regard, the General Court recalled, in paragraph 71 of the order under appeal, that if an individual is to be directly affected by an act it is necessary that the European Union act which is challenged should directly affect the legal situation of that individual and that there should be no discretion left to the addressees of that act who are responsible for its implementation, that implementation being purely automatic and resulting from European Union rules alone without the application of other intermediate rules.

17 As regards the contested regulation, the General Court held, in paragraph 75 of the order under appeal, referring to the order in Case T-40/04 *Bonino and Others* v *Parliament and Council* [2005] ECR II-2685, paragraph 56, that, in the light of what is stated in Article 3(1) of the contested regulation, that regulation directly affects only the legal situation of those applicants who are active in the placing of seal products on the European Union market. That regulation did not prohibit seal hunting, which indeed takes place outside the European Union market, or the use or consumption of seal products which are not marketed. While it cannot be precluded that the general prohibition of placing on the market provided for by the contested regulation might have consequences for the business activities of persons intervening upstream or downstream of that placing on the market, such consequences cannot be regarded as resulting directly from that regulation. Furthermore, any economic consequences of that prohibition affect only the factual situation of the appellants, not their legal situation.

18 After recalling, in paragraph 76 of the order under appeal, the wording of Articles 3(4) and 5(3) of the contested regulation and recital 17 of its preamble, the General Court found, in paragraph 77 of the order under appeal, that, notwithstanding the prohibition on placing on the market seal products in respect of which it is established that they do not result from hunts traditionally conducted by Inuit and other indigenous communities and contribute to their subsistence, the conditions for the placing of products on the market are not defined.

19 In that regard, the General Court held, in paragraphs 78 to 80 of the order under appeal, that the contested regulation did not specify, in particular, what was meant by 'other indigenous communities', and offered no explanation concerning hunts traditionally conducted to contribute to subsistence, nor how the Inuit origin or that of other indigenous communities was established. Accordingly, as regards products which might be subject to the exception, the national authorities were not in a position to apply the contested regulation without implementing measures established by an implementing regulation defining the conditions under which the placing of those products on the market is permitted. The situation of the appellants and Mr Agathos, to the extent that it is covered by the exception concerned, could consequently be assessed only on the basis of measures relating to the implementation of the contested regulation. That being so, the contested regulation affects only the legal situation of the appellants who are active in the placing of seal products on the European Union market and who are affected by the general prohibition on placing those products on the market.

20 In contrast, that is not the case for the appellants whose business activity is not the placing of those products on the market and/or those of the appellants covered by the exception provided by the contested regulation, since, in principle, placing on the European Union market seal products resulting from hunts traditionally conducted by Inuit and other indigenous communities to contribute to their subsistence continues to be permitted. More specifically, seal hunters and trappers of Inuit origin, and organisations which represent the appellants' interests, cannot be regarded as active in the placing of seal products on the market.

21 Accordingly, the General Court held, in paragraphs 81 to 87 of the order under appeal, that only four of the appellants are directly concerned by the contested regulation, namely those who are active in the processing and/or marketing of seal products supplied by Inuit and non-Inuit hunters and trappers. As regards Ms Aariak, the General Court found, in paragraph 82 of the order under appeal, that she cannot be regarded as directly concerned by the contested regulation. While she is active in the processing of seal

products, namely the design and sale of garments manufactured using sealskins, it is apparent from the application and the observations of the appellants and Mr Agathos on the objections of inadmissibility that she also belongs to the Inuit community and makes no claim to be active in placing on the market products other than those covered by the exception concerned.

22 Since an individual's situation must be affected both directly and individually if the conditions of admissibility of an action laid down in the fourth paragraph of Article 263 TFEU are to be satisfied, the General Court examined, in paragraphs 88 to 93 of the order under appeal, whether the four appellants whom it regarded as being directly concerned by the contested regulation could also be regarded as being individually concerned by it. In that regard, the General Court held, referring to paragraph 41 of that order, that the contested regulation applies to objectively determined situations and produces legal effects in regard to categories of persons envisaged generally and in the abstract. The general prohibition on placing on the market seal products other than those resulting from hunts traditionally conducted by Inuit and other indigenous communities to contribute to their subsistence is expressed in a general manner and is capable of applying indiscriminately to any trader who falls within the scope of that regulation.

23 While the four appellants involved are active in placing on the market seal products supplied by Inuit and non-Inuit hunters and trappers, they are, in that capacity, concerned by the contested regulation in the same way as any other trader who places seal products on the market. Even if those appellants are covered not only by the general prohibition by also by the exception in relation to products of Inuit origin, that is not sufficient to distinguish them individually in the same way as the addressee of a decision.

24 In those circumstances, the General Court declared the action for annulment to be inadmissible.

Forms of order sought by the parties

25 The appellants claim that the Court should:

– set aside the order under appeal;

– declare the application for annulment to be admissible if the Court considers that all information required for a decision on the admissibility of the action for annulment of the contested is available;

– in the alternative, set aside the order under appeal and refer the case back to the General Court;

– order the Parliament and the Council to pay the appellants' costs;

– order the Commission and the Kingdom of the Netherlands to bear their own costs.

26 The Council contends that the Court should:

– dismiss the appeal;

– order the appellants jointly and severally to pay the costs.

27 The Parliament contends that the Court should:

– dismiss the appeal;

– order the appellants to pay the costs.

28 The Commission requests that the Court dismiss the appeal and order the appellants to pay the costs.

29 The Kingdom of the Netherlands has not submitted a statement in intervention.

The appeal

30 The appellants put forward four grounds in support of their appeal. The first ground of appeal concerns an error in law in the interpretation and application of the fourth paragraph of Article 263 TFEU. It is divided into two parts. By their second ground of appeal, the appellants claim that the General Court was in breach of its obligation to state reasons. The third ground of appeal is that the General Court disregarded Article 47 of the Charter and Articles 6 and 13 of the European Convention for the Protection of Human Rights and Fundamental Freedoms, signed at Rome on 4 November 1950 ('the ECHR'). Last, by their fourth ground of appeal, the appellants consider that the General Court distorted the clear sense of the evidence.

The first ground of appeal

The first part of the first ground of appeal

– Arguments of the parties

31 By the first part of the first ground of appeal, the appellants consider that the General Court, in its interpretation of the concept of 'regulatory act' provided for in the fourth paragraph of Article 263 TFEU and, in particular, in that it excluded from the scope of that concept legislative acts, such as the contested regulation, erred in law.

32 According to the appellants, the distinction made by the General Court between legislative acts and regulatory acts is not supported by the wording used in the FEU Treaty, in particular, in Articles 288 TFEU, 289 TFEU and 290 TFEU. Those provisions distinguish between legislative acts and non-legislative acts. Further, as opposed to what was held by the General Court, the concept of 'regulatory act' covers not only some, but all, acts of general application, and consequently the literal interpretation carried out by the General Court in paragraphs 41 to 48 of the order under appeal is erroneous.

33 The appellants argue that the distinction made by the General Court leads to a situation where only recommendations and opinions adopted by the Parliament and/or the Council can be deemed to be regulatory acts, given that legislative acts encompass regulations, directives and decisions adopted by the Parliament and the Council, whereas delegated acts encompass acts adopted by the Commission. However, recommendations and opinions are not among the acts listed in the first paragraph of Article 263 TFEU which can be the subject matter of an action for annulment.

34 If it had been the intention of the draftsmen of the Treaty of Lisbon to use the term 'regulatory act' in the fourth paragraph of Article 263 TFEU as meaning the opposite of 'legislative act', use would instead have been made of the concept of 'delegated act' within the meaning of Article 290 TFEU. The reason why the Treaty draftsmen used the term 'regulatory act' is because what they had in mind were acts other than legislative or non-legislative acts. Furthermore, the implementing acts provided for in Article 291 TFEU are not covered by the distinction made by the General Court.

35 Consequently, the interpretation made by the General Court of the term 'regulatory act', as opposed to the term 'legislative act', nullifies the possibility, introduced by the Treaty of Lisbon, of a right of action against regulatory acts under the conditions stated in the third limb of the fourth paragraph of Article 263 TFEU, the objective of that change having been to open up the conditions of admissibility of actions in respect of natural and legal persons. The effect of such an interpretation is to preclude the bringing of any action by an individual on the basis of the third limb of the fourth paragraph of Article 263 TFEU.

36 The historical interpretation of the term 'regulatory act' carried out by the General Court is also erroneous. The Treaty of Lisbon, although it refers in the fourth paragraph of Article 263 TFEU – as did

Article III-365(4) of the proposed treaty establishing a Constitution for Europe – to regulatory acts, does not use the classification of legal acts provided for by that proposed treaty, including, inter alia, the concept of 'European regulation' as a form of non-legislative act. In the context of the FEU Treaty, regulations can be legislative acts or non-legislative acts.

37 According to the appellants, the fact that the wording of the fourth paragraph of Article 263 TFEU was not altered demonstrates that the concept of 'regulatory act' for the purposes of that provision was extended so that it would cover all regulations, whether legislative in nature or not. That teleological interpretation is moreover in line with the original concern both of the authors of the proposed treaty establishing a Constitution for Europe and of those of the Treaty of Lisbon, who wanted to fill the lacunae which had been clearly identified in Case C-50/00 P *Unión de Pequeños Agricultores* v *Council* [2002 ECR] I-6677, and in *Commission* v *Jégo-Quéré*.

38 The Parliament, the Council and the Commission endorse the General Court's interpretation of the concept of 'regulatory act'.

39 The Parliament submits that, while it is true that the hierarchy of norms laid down in Article I-33 of the proposed treaty establishing a Constitution for Europe, which distinguished between legislative acts, on the one hand, and regulatory acts, on the other, has not been carried over to the FEU Treaty, Article 289(3) TFEU clearly defines legislative acts as those adopted following the ordinary or special legislative procedure. Further, Article 263 TFEU distinguishes in its first and fourth paragraphs 'legislative acts' from 'regulatory acts'. Those two concepts must be reconciled in order to preserve the full *effet utile* of Article 263 TFEU.

40 The Parliament maintains that the appellants' complaint in relation to the General Court's finding that not all acts of general application can be considered to be regulatory acts contains no specific criticism, but repeats the arguments already put forward at first instance. Accordingly the appellants' arguments in relation thereto are in any event inadmissible.

41 As regards the appellants' argument that the General Court's interpretation of the concept of 'regulatory act' leaves that concept bereft of content, the Parliament, the Council and the Commission submit that that concept encompasses various categories of legal acts, including, inter alia, delegated acts and implementing acts of general application, adopted on the basis of Articles 290 TFEU or 291 TFEU, such acts constituting the overwhelming majority of European Union legal acts. It follows that the appellants' argument that the authors of the FEU Treaty would have used the term 'delegated', if they had wanted to refer to acts of general application which are not legislative acts, is misconceived. The Commission adds that the concept of 'regulatory act' also covers non-legislative acts of general application adopted on specific legal bases, such as Articles 43(3) TFEU, 109 TFEU and 215(1) TFEU and also acts of general application adopted by the various other 'bodies, offices or agencies' referred to in the first paragraph of Article 263 TFEU.

42 As regards the origins of the fourth paragraph of Article 263 TFEU, the Parliament considers that since the appellants present no specific criticism of the order under appeal they are asking the Court to re-examine the arguments put forward at first instance, which is, however, inadmissible in an appeal. In any event, the arguments put forward within the appeal are unfounded. In that regard, the Parliament and the Commission submit that it is patent that the Convention on the Future of Europe had chosen the term 'regulatory act' with the intention of excluding legislative acts and that the authors of the Treaty of Lisbon wanted to maintain the same distinction between legislative acts and regulatory acts for the purposes of legal remedies.

43 As regards the General Court's teleological approach, the Commission states that it cannot simply be inferred from the purpose behind the introduction of the third limb of the fourth paragraph of Article 263 TFEU, namely to extend the scope of the rules of *locus standi*, that the concept of 'regulatory act' must extend to legislative acts.

44 According to the Parliament, the General Court's interpretation of the concept of 'regulatory act' within the meaning of the fourth paragraph of Article 263 TFEU does not run counter to the objective pursued by that provision, which is to allow direct actions to be brought against non-legislative acts of general application on conditions which are less strict than those applying to actions brought on the basis of the fourth paragraph of Article 230 EC. By enabling natural or legal persons to institute proceedings directly against regulatory acts which are of direct concern to them and do not entail implementing measures, Article 263 TFEU fully remedies, in the opinion of the Parliament and the Council, the situation identified in *Unión de Pequeños Agricultores* v *Council* and *Commission* v *Jégo-Quéré*. It may be noted that in *Commission* v *Jégo-Quéré* the act at issue was a Commission implementing regulation which would, if the General Court's analysis is followed, clearly have to be categorised as a 'regulatory act' within the meaning of the fourth paragraph of Article 263 TFEU. The Council states, further, that, in accordance with the case-law of the General Court and the Court, the Member States must help to ensure that the system of legal remedies established by the Treaties is comprehensive.

– Findings of the Court

45 By the first part of their first ground of appeal, the appellants complain, in essence, that the General Court erred in law in holding that the concept of 'regulatory act', to be found in the fourth paragraph of Article 263 TFEU, does not encompass legislative acts within the meaning of Article 289(3) TFEU, such as the contested regulation.

46 It must, first, be recalled that, according to settled case-law, it follows from the second subparagraph of Article 256(1) TFEU, the first paragraph of Article 58 of the Statute of the Court of Justice of the European Union and Article 168(1)(d) of the Rules of Procedure of the Court of Justice that an appeal must indicate precisely the contested elements of the judgment which the appellant seeks to have set aside and the legal arguments specifically advanced in support of the appeal. An appeal which merely repeats or reproduces verbatim the pleas in law and arguments previously submitted to the General Court, including those based on facts expressly rejected by the General Court, does not satisfy the requirement to state reasons under those provisions (see, inter alia, Case C-41/00 P *Interporc* v *Commission* [2003] ECR I-2125, paragraphs 15 and 16, and Case C-280/08 P *Deutsche Telekom* v *Commission* [2010] ECR I-9555, paragraph 24 and the case-law cited).

47 However, provided that the appellant challenges the interpretation or application of European Union law by the General Court, the points of law examined at first instance may be argued again in the course of an appeal. Indeed, if an appellant could not thus base his appeal on pleas in law and arguments already relied on before the General Court, an appeal would be deprived of part of its purpose (Case C-131/03 P *Reynolds Tobacco and Others* v *Commission* [2006] ECR I-7795, paragraph 51 and the case-law cited).

48 In this case, it must be held that by the first part of their first ground of appeal the appellants are not seeking to obtain a mere re-examination of the application submitted to the General Court. By that first part, the appellants clearly indicate the passages in the order under appeal which they consider to be vitiated by errors in law and the legal arguments on which they rely in support of their appeal, including, in particular, those relating to the various methods of interpretation applied by the General Court. Accordingly, contrary to what was contended by the Parliament, the arguments already put forward at first instance are not merely repeated, but are in fact directed against an essential part of the reasons stated in the order under appeal, and, consequently, enable the Court to undertake its review.

49 The first part of the first ground of appeal is therefore admissible.

50 As regards the merits of this part of the first ground of appeal, it must be observed that, in accordance with the Court's settled case-law, the interpretation of a provision of European Union law requires that account be taken not only of its wording and the objectives it pursues, but also its context and the provisions of European Union law as a whole (see, to that effect, Case 283/81 *Cilfit and Others* [1982] ECR 3415, paragraph 20). The origins of a provision of European Union law may also provide information

relevant to its interpretation (see, to that effect, the judgment of 27 November 2012 in Case C-370/12 *Pringle* [2012] ECR, paragraph 135).

51 Accordingly, it is necessary to examine, on the basis of those methods of interpretation, whether the General Court erred in law in concluding, in paragraph 56 of the order under appeal, that the concept of 'regulatory act' within the meaning of the fourth paragraph of Article 263 TFEU refers to acts of general application other than legislative acts.

52 The first paragraph of Article 263 TFEU identifies the European Union acts which may be the subject matter of an action for annulment before the Courts of the European Union, namely (i) legislative acts and (ii), as correctly stated by the General Court in paragraph 44 of the order under appeal, other binding acts intended to produce legal effects vis-à-vis third parties, and the latter may be individual acts or acts of general application. Those acts may, in accordance with the second paragraph of Article 263 TFEU, be the subject matter of an action brought on grounds of lack of competence, infringement of an essential procedural requirement, infringement of the Treaties or of any rule of law relating to their application, or misuse of powers.

53 Next, Article 263 TFEU makes a clear distinction between the right of the European Union institutions and Member States to institute proceedings, on the one hand, and the right of natural and legal persons to do so, on the other. Thus, the second paragraph of Article 263 TFEU grants the European Union institutions there listed and the Member States the right to challenge, by an action for annulment, the legality of any act covered by the first paragraph, and it is not a condition of that right being exercised that any legal interest in bringing proceedings is established (see the judgment of 5 September 2012 in Case C-355/10 *Parliament* v *Council* [2012] ECR, paragraph 37 and the case-law cited). Further, in accordance with the third paragraph of Article 263, the institutions and the Committee listed there may bring before the Court an action for annulment of those acts, provided that the action is brought for the purpose of protecting their prerogatives.

54 On the other hand, as regards the right of natural and legal persons to institute proceedings, the fourth paragraph of Article 263 TFEU provides that '[a]ny natural or legal person may, under the conditions laid down in the first and second paragraphs, institute proceedings against an act addressed to that person or which is of direct and individual concern to them, and against a regulatory act which is of direct concern to them and does not entail implementing measures'.

55 First, it must be stated that the first two limbs of the fourth paragraph of Article 263 TFEU correspond with those which were laid down, before the entry into force of the Treaty of Lisbon, by the EC Treaty, in the fourth paragraph of Article 230 thereof (see, in relation to the latter provision, *Unión de Pequeños Agricultores* v *Council*, paragraphs 34 to 37).

56 Given the reference to 'acts' in general, the subject matter of those limbs of Article 263 is any European Union act which produces binding legal effects (see, to that effect, Case 60/81 *IBM* v *Commission* [1981] ECR 2639, paragraph 9; Case C-521/06 P *Athinaïki Techniki* v *Commission* [2008] ECR I-5829, paragraph 29; Case C-322/09 P *NDSHT* v *Commission* [2010] ECR I-11911, paragraph 45; and Joined Cases C-463/10 P and C-475/10 P *Deutsche Post* v *Commission* [2011] ECR I-9639, paragraphs 36 to 38). That concept therefore covers acts of general application, legislative or otherwise, and individual acts. The second limb of the fourth paragraph of Article 263 TFEU specifies that if the natural or legal person who brings the action for annulment is not a person to whom the contested act is addressed, the admissibility of the action is subject to the condition that the act is of direct and individual concern to that person.

57 Secondly, by means of the Treaty of Lisbon, there was added to the fourth paragraph of Article 263 TFEU a third limb which relaxed the conditions of admissibility of actions for annulment brought by natural and legal persons. Since the effect of that limb is that the admissibility of actions for annulment brought by natural and legal persons is not subject to the condition of individual concern, it renders possible such legal actions against 'regulatory acts' which do not entail implementing measures and are of direct concern to the applicant.

58 As regards the concept of 'regulatory act', it is apparent from the third limb of the fourth paragraph of Article 263 TFEU that its scope is more restricted than that of the concept of 'acts' used in the first and second limbs of the fourth paragraph of Article 263 TFEU, in respect of the characterisation of the other types of measures which natural and legal persons may seek to have annulled. The former concept cannot, as the General Court held correctly in paragraph 43 of the order under appeal, refer to all acts of general application but relates to a more restricted category of such acts. To adopt an interpretation to the contrary would amount to nullifying the distinction made between the term 'acts' and 'regulatory acts' by the second and third limbs of the fourth paragraph of Article 263 TFEU.

59 Further, it must be observed that the fourth paragraph of Article 263 TFEU reproduced in identical terms the content of Article III-365(4) of the proposed treaty establishing a Constitution for Europe. It is clear from the *travaux préparatoires* relating to that provision that while the alteration of the fourth paragraph of Article 230 EC was intended to extend the conditions of admissibility of actions for annulment in respect of natural and legal persons, the conditions of admissibility laid down in the fourth paragraph of Article 230 EC relating to legislative acts were not however to be altered. Accordingly, the use of the term 'regulatory act' in the draft amendment of that provision made it possible to identify the category of acts which might thereafter be the subject of an action for annulment under conditions less stringent than previously, while maintaining 'a restrictive approach in relation to actions by individuals against legislative acts (for which the "of direct and individual concern" condition remains applicable)' (see, inter alia, Secretariat of the European Convention, Final report of the discussion circle on the Court of Justice of 25 March 2003, CONV 636/03, paragraph 22, and Cover note from the Praesidium to the Convention of 12 May 2003, CONV 734/03, p. 20).

60 In those circumstances, it must be held that that the purpose of the alteration to the right of natural and legal persons to institute legal proceedings, laid down in the fourth paragraph of Article 230 EC, was to enable those persons to bring, under less stringent conditions, actions for annulment of acts of general application other than legislative acts.

61 The General Court was therefore correct to conclude that the concept of 'regulatory act' provided for in the fourth paragraph of Article 263 TFEU does not encompass legislative acts.

62 The first part of the first ground of appeal must, therefore, be rejected as unfounded.

The second part of the first ground of appeal

– Arguments of the parties

63 By the second part of the first ground of appeal, the appellants submit that the General Court committed errors in law in its examination of whether the contested regulation was of direct and individual concern to them.

64 As regards the condition that the act of which annulment is sought should be of direct concern, the appellants consider that the General Court erred in law in holding that the contested regulation is of direct concern only to those four appellants who are active in placing seal products on the European Union market. In paragraph 82 of the order under appeal, concerning the situation of Ms Aariak, the General Court considered that the contested regulation is of direct concern only to the appellants who are active in placing on the market seal products other than seal products allegedly covered by the exception in favour of the Inuits. However, it is of no relevance whether the products which Ms Aariak places on the market are or are not covered by the exception in order for her to be directly concerned by that regulation. The General Court thus added an additional factor to the condition of direct concern.

65 As regards the condition that the act of which annulment is sought should be of individual concern, the appellants consider that the General Court erred in law by applying a restrictive interpretation of that condition. The Member States were inspired to modify the fourth paragraph of Article 230 EC in such a way as to extend the conditions of admissibility in respect of natural and legal persons following the

judgments in *Unión de Pequeños Agricultores* v *Council* and *Commission* v *Jégo-Quéré*. In the light of that development, the Court should review the restrictive interpretation of the condition of individual concern, established by *Plaumann* v *Commission*. If the Court applies the test of 'substantial adverse effect' on the appellants' interests caused by the contested regulation, as proposed by Advocate General Jacobs in point 60 of his Opinion in the case which gave rise to the judgment in *Unión de Pequeños Agricultores* v *Council*, the Court will come to the conclusion that that regulation is of individual concern to the appellants in this case.

66 The Parliament, the Council and the Commission consider that the Treaty of Lisbon did not alter the content of the conditions that the act of which annulment is sought should be of direct and individual concern. There is no indication to that effect in the Treaty or in the *travaux préparatoires* which would necessitate a modification of existing case-law on the matter. The General Court did not err in law by interpreting those conditions in the same way as before the entry into force of that treaty.

67 The Council considers, further, that the appellants' assertions in relation to how the fact of being individually concerned should be understood have the effect, in practice, that any person to whom the act of which annulment is sought is of direct concern also has to be regarded as a person to whom that act is of individual concern. Accordingly, the distinction established between regulatory acts and legislative acts becomes largely irrelevant.

– Findings of the Court

68 By the second part of their first ground of appeal, the appellants complain, in essence, that the General Court erred in law in holding that they do not satisfy the conditions laid down in the second limb of the fourth paragraph of Article 263 TFEU governing the bringing of an action for annulment, in that the contested regulation is not of direct and individual concern to them.

69 As regards the condition that the act of which annulment is sought should be of individual concern, it must be noted that while the appellants do not claim that the General Court erroneously applied the assessment criteria deriving from the Court's settled case-law since *Plaumann* v *Commission* in relation to that condition of admissibility, they explicitly ask that the Court should review those assessment criteria and replace them with a criterion of 'substantial adverse effect'.

70 In that regard, it can be seen that the second limb of the fourth paragraph of Article 263 TFEU corresponds, as stated in paragraph 55 of this judgment, to the second limb of the fourth paragraph of Article 230 EC. The wording of that provision has not been altered. Further, there is nothing to suggest that the authors of the Treaty of Lisbon had any intention of altering the scope of the conditions of admissibility already laid down in the fourth paragraph of Article 230 EC. Moreover, it is clear from the *travaux préparatoires* relating to Article III-365(4) of the proposed treaty establishing a Constitution for Europe that the scope of those conditions was not to be altered (see, inter alia, Secretariat of the European Convention, Final report of the discussion circle on the Court of Justice of 25 March 2003, CONV 636/03, paragraph 23).

71 In those circumstances, it must be held that the content of the condition that the act of which annulment is sought should be of individual concern, as interpreted by the Court in its settled case-law since *Plaumann* v *Commission*, was not altered by the Treaty of Lisbon. It must therefore be held that the General Court did not err in law in applying the assessment criteria laid down by that case-law.

72 According to that case-law, natural or legal persons satisfy the condition of individual concern only if the contested act affects them by reason of certain attributes which are peculiar to them or by reason 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 (see *Plaumann* v *Commission*; Case C-298/00 P *Italy* v *Commission* [2004] ECR I-4087, paragraph 36; and Joined Cases C-71/09 P, C-73/09 P and C-76/09 P *Comitato 'Venezia vuole vivere'* v *Commission* [2011] ECR I-4727, paragraph 52).

73 In this case, it is true that the General Court confined itself in paragraphs 88 to 93 of the order under appeal to examining whether the contested regulation was of individual concern to four of the appellants for the purposes of the fourth paragraph of Article 263 TFEU, since that regulation was not, in any event, of direct concern to the other appellants for the purposes of that provision. However, it must be found that none of the appellants are distinguished individually by the contested regulation just as in the case of the person addressed, within the meaning of the settled case-law since *Plaumann* v *Commission*. 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.

74 In those circumstances, there is no need to examine whether the General Court erred in law in holding that only those appellants who are active in the processing and/or marketing of seal products supplied by Inuit and non-Inuit hunters and trappers are directly concerned by the contested regulation, given that any error in law in that regard is immaterial to the outcome of proceedings and does not affect the operative part of the order under appeal.

75 It is apparent, from the actual wording of the fourth paragraph of Article 263 TFEU and from settled case-law, that a natural or legal person is entitled to bring an action for annulment of an act which is not a decision addressed to that person only if the person is not only directly concerned by such an act but also individually concerned by it (see, with regard to Article 230 EC, Case C-167/02 P *Rothley and Others* v *Parliament* [2004] ECR I-3149, paragraph 25 and the case-law cited).

76 Accordingly, since the conditions that the act of which annulment is sought should be of direct concern and individual concern are cumulative, the consequence, if one of those conditions is not met by an applicant, is that an action brought by him for annulment of that act must be held to be inadmissible.

77 In the light of the foregoing, the second part of the first ground of appeal must be rejected as being unfounded and, consequently, the first ground of appeal as a whole must be rejected.

The second ground of appeal

Arguments of the parties

78 By their second ground of appeal, the appellants claim that the General Court erred in law in not replying specifically and expressly to the arguments put forward in paragraphs 53 to 57 of their observations on the objections of inadmissibility, to the effect that only a broad interpretation of the fourth paragraph of Article 263 TFEU is compatible with Article 47 of the Charter and Articles 6 and 13 of the ECHR.

79 Further, the finding made in paragraph 51 of the order under appeal, that the conditions relating to the institution of proceedings against a regulation 'are expressly laid down' in the fourth paragraph of Article 263 TFEU, cannot be reconciled with the need to undertake a literal, historical and teleological interpretation of that provision. As the General Court carried out such a thorough interpretation of the fourth paragraph of Article 263 TFEU, it could not reject the appellants' arguments by merely declaring that the conditions governing the right to institute proceedings are 'expressly laid down'.

80 According to the Parliament, the Council and the Commission, the response of the General Court to the appellants' arguments was sufficient. The General Court was not required to give separate consideration to Articles 6 and 13 of the ECHR, given that the meaning and scope of those articles and of Article 47 of the Charter are identical. The Parliament adds that the General Court was under no obligation to respond in detail to the appellants' claims, since the General Court had already rejected on other grounds, in the preceding paragraphs of the order under appeal, the interpretation of the fourth paragraph of Article 263 TFEU put forward by the appellants. The Council maintains, moreover, that even if the General Court did not examine in detail Article 47 of the Charter, the obligation to state reasons was complied with by means of reference to the Court's own case-law, from which it is clearly apparent that the Courts of the European Union cannot disregard the conditions laid down in Article 263 TFEU.

Findings of the Court

81 There is no dispute that the General Court replied, in paragraph 51 of the order under appeal, to the appellants' arguments relating to the fundamental right to effective judicial protection, as set out in paragraphs 53 to 57 of their observations on the objection of inadmissibility submitted by the Parliament and the Council. The General Court held, on the basis of the Court's case-law, that the Courts of the European Union cannot, without exceeding their jurisdiction, interpret the conditions under which an individual may institute proceedings against a regulation in a way which has the effect of setting aside those conditions, which are expressly laid down by the Treaty, even in the light of the principle of effective judicial protection.

82 In accordance with the Court's settled case-law, the General Court was not required to provide an account which follows exhaustively all the arguments put forward by the parties to the case. According to that case-law, the reasoning of the General Court may be implicit, on condition that it enables the persons concerned to know why the measures in question were taken and provides the competent court with sufficient material for it to exercise its power of review (see Case C-385/07 P *Der Grüne Punkt – Duales System Deutschland* v *Commission* [2009] ECR I-6155, paragraph 114 and the case-law cited).

83 In those circumstances, the fact that the General Court, in paragraph 51 of the order under appeal, does not explicitly refer to Articles 6 and 13 of the ECHR, relied on by the appellants, and does not explicitly deal with all the details of their arguments cannot be regarded as constituting a breach of the obligation to state reasons.

84 The same is true of the fact that the General Court concluded, in the same paragraph, that it could not disregard the conditions relating to the institution of proceedings against a regulation which 'are expressly laid down' in the fourth paragraph of Article 263 TFEU, even though it undertook a literal, historical and teleological interpretation of that provision. The General Court ruled on the scope of the concept of 'regulatory act', provided for in the fourth paragraph of Article 263 TFEU, by undertaking a classical interpretation using methods of interpretation recognised by European Union law. To proceed in such a way does not alter the fact that that concept represents a condition of admissibility expressly laid down in the fourth paragraph of Article 263 TFEU, which actions for annulment brought by natural and legal persons must satisfy, and does not mean that the reasoning of the General Court is self-contradictory.

85 It follows from the foregoing that the second ground of appeal is unfounded.

The third ground of appeal

Arguments of the parties

86 By the third ground of appeal, the appellants claim that the General Court's interpretation of the fourth paragraph of Article 263 TFEU is in breach of Article 47 of the Charter and Articles 6 and 13 of the ECHR. The General Court, in its judgment in Case T-177/01 *Jégo-Quéré* v *Commission* [2002] ECR II-2365, stated that a strict interpretation by the Courts of the European Union of the conditions of admissibility of direct actions could not be regarded as guaranteeing to natural and legal persons the right to an effective remedy enabling them to challenge the legality of acts of general application which directly affect their legal situation.

87 The interpretation of the fourth paragraph of Article 263 TFEU in the order under appeal is, according to the appellants, even a step backward by comparison with the situation which existed before the entry into force of the Treaty of Lisbon. Before the entry into force of that Treaty, the Courts of the European Union had applied a material criterion in order to determine whether natural and legal persons had standing to bring proceedings for annulment, whereas, now, a purely formal criterion is applied.

88 The Parliament, the Council and the Commission consider that the appellants have the benefit of effective judicial protection given that they have the right to institute proceedings against Regulation No 737/2010,

which is the implementing measure in respect of the contested regulation and which they challenged in the case which gave rise to the judgment of 25 April 2013 in Case T-526/10 *Inuit Tapiriit Kanatami and Others* v *Commission* [2013] ECR, enabling them to put forward the same substantive arguments as were presented before the General Court in this case. Moreover, with reference to the Explanations on the Charter relating to Article 47 thereof, the Council and the Commission argue that that article was not intended to change the system of judicial review laid down by the Treaties, and particularly the rules relating to the admissibility of direct actions.

Findings of the Court

89 By the third ground of appeal, the appellants claim, in essence, that the interpretation adopted by the General Court of the fourth paragraph of Article 263 TFEU is in breach of Article 47 of the Charter in that it enables natural and legal persons to bring actions for annulment of European Union legislative acts solely where those acts are of direct and individual concern to them, within the meaning of the fourth paragraph of Article 263 TFEU.

90 First, it must be recalled that judicial review of compliance with the European Union legal order is ensured, as can be seen from Article 19(1) TEU, by the Court of Justice and the courts and tribunals of the Member States (see, to that effect, Opinion of the Court 1/09 [2011] ECR I-1137, paragraph 66).

91 Further, the European Union is a union based on the rule of law in which the acts of its institutions are subject to review of their compatibility with, in particular, the Treaties, the general principles of law and fundamental rights (see, to that effect, Case C-550/09 *E and F* [2010] ECR I-6213, paragraph 44).

92 To that end, the FEU Treaty has established, by Articles 263 and 277, on the one hand, and Article 267, on the other, a complete system of legal remedies and procedures designed to ensure judicial review of the legality of European Union acts, and has entrusted such review to the Courts of the European Union (see Case 294/83 *Les Verts* v *Parliament* [1986] ECR 1339, paragraph 23; *Unión de Pequeños Agricultores* v *Council*, paragraph 40; *Reynolds Tobacco and Others* v *Commission*, paragraph 80; and Case C-59/11 *Association Kokopelli* [2012] ECR, paragraph 34).

93 Accordingly, natural or legal persons who cannot, by reason of the conditions of admissibility stated in the fourth paragraph of Article 263 TFEU, challenge directly European Union acts of general application do have protection against the application to them of those acts. Where responsibility for the implementation of those acts lies with the European Union institutions, those persons are entitled to bring a direct action before the Courts of the European Union against the implementing measures under the conditions stated in the fourth paragraph of Article 263 TFEU, and to plead, pursuant to Article 277 TFEU, in support of that action, the illegality of the general act at issue. Where that implementation is a matter for the Member States, such persons may plead the invalidity of the European Union act at issue before the national courts and tribunals and cause the latter to request a preliminary ruling from the Court of Justice, pursuant to Article 267 TFEU (see, to that effect, *Les Verts* v*Parliament*, paragraph 23).

94 In that context, it must be emphasised that, in proceedings before the national courts, individual parties have the right to challenge before the courts the legality of any decision or other national measure relative to the application to them of a European Union act of general application, by pleading the invalidity of such an act (see, to that effect, *Unión de Pequeños Agricultores* v *Council*, paragraph 42, and *E and F*, paragraph 45).

95 It follows that requests for preliminary rulings which seek to ascertain the validity of a measure constitute, like actions for annulment, means for reviewing the legality of European Union acts (see Joined Cases C-143/88 and C-92/89 *Zuckerfabrik Süderdithmarschen and Zuckerfabrik Soest* [1991] ECR I-415, paragraph 18, and Joined Cases C-453/03, C-11/04, C-12/04 and C-194/04 *ABNA and Others* [2005] ECR I-10423, paragraph 103).

96 In that regard, it must be borne in mind that where a national court or tribunal considers that one or more arguments for invalidity of a European Union act, put forward by the parties or, as the case may be, raised by it of its own motion, are well founded, it is incumbent upon it to stay proceedings and to make a reference to the Court for a preliminary ruling on the act's validity, the Court alone having jurisdiction to declare a European Union act invalid (Case C-344/04*IATA and ELFAA* [2006] ECR I-403, paragraphs 27 and 30 and the case-law cited).

97 Having regard to the protection conferred by Article 47 of the Charter, it must be observed that that article is not intended to change the system of judicial review laid down by the Treaties, and particularly the rules relating to the admissibility of direct actions brought before the Courts of the European Union, as is apparent also from the Explanation on Article 47 of the Charter, which must, in accordance with the third subparagraph of Articles 6(1) TEU and Article 52(7) of the Charter, be taken into consideration for the interpretation of the Charter (see the judgment of 22 January 2013 in Case C-283/11 *Sky Österreich* [2013] ECR, paragraph 42, and the judgment of 18 July 2013 in Case C-426/11 *Alemo-Herron and Others* [2013] ECR, paragraph 32).

98 Accordingly, the conditions of admissibility laid down in the fourth paragraph of Article 263 TFEU must be interpreted in the light of the fundamental right to effective judicial protection, but such an interpretation cannot have the effect of setting aside the conditions expressly laid down in that Treaty (see, to that effect, *Unión de Pequeños Agricultores* v *Council*, paragraph 44, and *Commission* v*Jégo-Quéré*, paragraph 36).

99 As regards the role of the national courts and tribunals, referred to in paragraph 90 of this judgment, it must be recalled that the national courts and tribunals, in collaboration with the Court of Justice, fulfil a duty entrusted to them both of ensuring that in the interpretation and application of the Treaties the law is observed (Opinion of the Court 1/09, paragraph 69).

100 It is therefore for the Member States to establish a system of legal remedies and procedures which ensure respect for the fundamental right to effective judicial protection (*Unión de Pequeños Agricultores* v*Council*, paragraph 41, and *Commission* v *Jégo-Quéré*, paragraph 31).

101 That obligation on the Member States was reaffirmed by the second subparagraph of Article 19(1) TEU, which states that Member States 'shall provide remedies sufficient to ensure effective judicial protection in the fields covered by European Union law'.

102 In that regard, in the absence of European Union rules governing the matter, it is for the domestic legal system of each Member State to designate, with due observance of the requirements stemming from paragraphs 100 and 101 of this judgment and the principles of effectiveness and equivalence, the courts and tribunals with jurisdiction and to lay down the detailed procedural rules governing actions brought to safeguard rights which individuals derive from European Union law (see, to that effect, inter alia, Case C-268/06*Impact* [2008] ECR I-2483, paragraph 44 and the case-law cited; Case C-118/08 *Transportes Urbanos y Servicios Generales* [2010] ECR I-635, paragraph 31; and Joined Cases C-317/08 to C-320/08*Alassini and Others* [2010] ECR I-2213, paragraphs 47 and 61).

103 As regards the remedies which Member States must provide, while the FEU Treaty has made it possible in a number of instances for natural and legal persons to bring a direct action, where appropriate, before the Courts of the European Union, neither the FEU Treaty nor Article 19 TEU intended to create new remedies before the national courts to ensure the observance of European Union law other than those already laid down by national law (Case C-432/05 *Unibet*[2007] ECR I-2271, paragraph 40).

104 The position would be otherwise only if the structure of the domestic legal system concerned were such that there was no remedy making it possible, even indirectly, to ensure respect for the rights which individuals derive from European Union law, or again if the sole means of access to a court was available to parties who were compelled to act unlawfully (see, to that effect, *Unibet*, paragraphs 41 and 64 and the case-law cited).

105 As regards the appellants' argument that the interpretation adopted by the General Court of the concept of 'regulatory act', provided for in the fourth paragraph of Article 263 TFEU, creates a gap in judicial protection, and is incompatible with Article 47 of the Charter in that its effect is that any legislative act is virtually immune to judicial review, it must be stated that the protection conferred by Article 47 of the Charter does not require that an individual should have an unconditional entitlement to bring an action for annulment of European Union legislative acts directly before the Courts of the European Union.

106 Last, neither that fundamental right nor the second subparagraph of Article 19(1) TEU require that an individual should be entitled to bring actions against such acts, as their primary subject matter, before the national courts or tribunals.

107 In those circumstances, the third ground of appeal must be rejected as being unfounded.

The fourth ground of appeal

Arguments of the parties

108 By their fourth ground of appeal, the appellants claim that the clear sense of the evidence was distorted. In that regard, they claim that the General Court, on a number of occasions, distorted the sense of their arguments relating to the extent to which legislative acts are covered by the concept of 'regulatory act' provided for in the fourth paragraph of Article 263 TFEU. In particular, the General Court confused their arguments with those of the Parliament and the Council. Accordingly, the conclusion reached by the General Court is vitiated by a number of manifest errors of assessment, and consequently the Court should set aside the order under appeal, or at least that part of it dealing with the interpretation of that concept of 'regulatory act', and should itself examine the appellants' arguments in that regard.

109 The Parliament considers that this ground of appeal is manifestly inadmissible. In reality, the appellants are seeking to obtain a re-examination of the arguments relied on at first instance. In any event, this ground of appeal is unfounded given that the General Court did not incorrectly interpret the appellants' arguments. Further, the appellants have not shown that the alleged errors had any effect on the General Court's finding that the contested regulation is not a 'regulatory act' for the purposes of Article 263 TFEU.

110 The Council and the Commission consider that this ground of appeal should be rejected in the light of the fact that the appellants do not refer to any facts or evidence the sense of which might have been distorted by the General Court.

Findings of the Court

111 By their fourth ground of appeal, the appellants claim, in essence, that some of their arguments put forward before the General Court were distorted and seek, for that reason, to call into question the conclusion of the General Court that the concept of 'regulatory act' within the meaning of the fourth paragraph of Article 263 TFEU does not encompass legislative acts.

112 In this case, however, as is apparent from paragraph 61 of this judgment, the General Court was right to hold that the concept of 'regulatory act' does not encompass legislative acts. Accordingly, even if the General Court had distorted some of the appellants' arguments, such distortion would not affect the operative part of the order under appeal and cannot therefore lead to the setting aside of that order.

113 In those circumstances, the fourth ground of appeal must be rejected.

114 It follows from all the foregoing that, since none of the grounds of appeal put forward by the appellants have been upheld, the appeal must be dismissed in its entirety.

Costs

115 In accordance with Article 184(2) of the Rules of Procedure, where the appeal is unfounded, the Court is to make a decision as to costs.

116 Under Article 138(1) of those rules, which apply to the procedure on appeal by virtue of Article 184(1) thereof, the unsuccessful party must be ordered to pay the costs if they have been applied for in the successful party's pleadings. Where an intervener at first instance, who has not himself brought an appeal, takes part in the proceedings before the Court, the Court may decide, under Article 184(4), that he is to bear his own costs. Pursuant to Article 140(1) of those rules, also applicable to the procedure on appeal by virtue of Article 184(1) thereof, Member States and institutions which intervene in the proceedings are to bear their own costs.

117 Since the Parliament and the Council applied for costs against the appellants and the appellants have been unsuccessful, they must be ordered both to bear their own costs and pay those incurred by the Parliament and the Council in relation to the appeal.

118 The Commission as an intervener before the General Court is to bear its own costs.

On those grounds, the Court (Grand Chamber) hereby:

1. **Dismisses the appeal;**

2. **Orders Inuit Tapiriit Kanatami, Nattivak Hunters and Trappers Association, Pangnirtung Hunters' and Trappers' Association, Mr Jaypootie Moesesie, Mr Allen Kooneeliusie, Mr Toomasie Newkingnak, Mr David Kuptana, Ms Karliin Aariak, Canadian Seal Marketing Group, Ta Ma Su Seal Products, Inc., Fur Institute of Canada, NuTan Furs, Inc., GC Rieber Skinn AS, Inuit Circumpolar Council Greenland (ICC-Greenland), Mr Johannes Egede and Kalaallit Nunaanni Aalisartut Piniartullu Kattuffiat (KNAPK) to bear their own costs and to pay those incurred by the European Parliament and the Council of the European Union;**

3. **Orders the European Commission to bear its own costs.**