

**Action brought on 21 March 2014 — European Commission v Council of the European Union****(Case C-134/14)**

(2014/C 175/32)

*Language of the case: French***Parties***Applicant:* European Commission (represented by: R. Lyal, W. Mölls, and D. Martin, acting as Agents)*Defendant:* Council of the European Union**Form of order sought**

- Annul Council Directive 2013/62/EU of 17 December 2013 amending Directive 2010/18/EU implementing the revised Framework Agreement on parental leave concluded by BUSINESSEUROPE, UEAPME, CEEP and ETUC, following the amendment of the status of Mayotte with regard to the European Union <sup>(1)</sup>;
- Maintain the effects of Directive 2013/62/EU until such time as a new directive founded on an appropriate legal basis enters into effect;
- Order the Council of the European Union to pay the costs.

**Pleas in law and main arguments**

The Commission seeks the annulment of Directive 2013/62/EU, which the Council adopted on the legal basis of Article 349 TFEU.

The Commission alleges that the Council adopted that directive when it had proposed to base that act on a sectoral legal basis, namely Article 155(2) TFEU.

It considers that, in accordance with the purpose and aim of the contested directive, Article 349 TFEU cannot validly be used as a legal basis. Article 349 TFEU only applies when derogating from the principle of the application of primary law to the outermost regions, as established in Article 355(1) TFEU. However, the directive in question, if it is not to derogate from the Treaties, only adapts the secondary law in order to respond to the situation created by the change in status of Mayotte. That interpretation is supported not only by the wording of Article 349 TFEU, but also by the system of legal bases of the Treaty and by the historical origins of that article.

<sup>(1)</sup> OJ 2013 L 353, p. 7.

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(2014/C 175/33)

*Language of the case: French***Parties***Applicant:* European Commission (represented by: R. Lyal, W. Mölls, and D. Bianchi, acting as Agents)*Defendant:* Council of the European Union**Form of order sought**

- annul Council Regulation (EU) No 1385/2013 of 17 December 2013 amending Council Regulations (EC) No 850/98 and (EC) No 1224/2009, and Regulations (EC) No 1069/2009, (EU) No 1379/2013 and (EU) No 1380/2013 of the European Parliament and of the Council, following the amendment of the status of Mayotte with regard to the European Union. <sup>(1)</sup>

- maintain the effects of Regulation (EU) No 1385/2013 until the entry into force of a new regulation based on appropriate legal bases.
- order the Council of the European Union to pay the costs.

### **Pleas in law and main arguments**

The Commission seeks annulment of Regulation (EU) No 1385/2013 that the Council adopted on the legal basis of Article 349 TFEU.

The Commission alleges that the Council adopted that regulation although the Commission had proposed that the act be based on sector-specific legal bases, namely Article 43(2) and Article 168(4)(b) TFEU.

It submits that, in accordance with the purpose and aim of the contested regulation, Article 349 TFEU cannot legitimately be used as a legal basis. Article 349 TFEU can be applied only when it involves derogation from the principle of application of primary law to the outermost regions, as established in Article 355(1) TFEU. However, the regulation at issue, without derogating from the Treaties, merely adapts secondary law to respond to the situation created by the change of the status of Mayotte. That interpretation is supported not only by the wording of Article 349 TFEU, but also by the system of legal bases of the Treaty, as well as by the historical origins of that article.

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<sup>(1)</sup> OJ 2013 L 354, p. 86.

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**Action brought on 21 March 2014 — European Parliament v Council of the European Union**  
**(Case C-136/14)**  
(2014/C 175/34)  
*Language of the case: French*

### **Parties**

*Applicant:* European Parliament (represented by: J. Rodrigues and L. Visaggio, acting as Agents)

*Defendant:* Council of the European Union

### **Form of order sought**

- annul Council Directive 2013/64/EU of 17 December 2013 amending Council Directives 91/271/EEC and 1999/74/EC, and Directives 2000/60/EC, 2006/7/EC, 2006/25/EC and 2011/24/EU of the European Parliament and of the Council, following the amendment of the status of Mayotte with regard to the European Union. <sup>(1)</sup>
- order the Council of the European Union to pay the costs.

### **Pleas in law and main arguments**

The European Parliament seeks annulment of Directive 2013/64/EU which the Council adopted on the legal basis of Article 349 TFEU.

According to the Parliament, the legal basis chosen by the Council is incorrect, on the ground that the measures provided for in the contested directive come under the responsibilities of the European Union pursuant to various common policies. Those measures should therefore have been adopted under sector-specific legal bases concerning the areas of environment, agriculture, social policy and public health, namely Articles 43(2), 114, 153(2), 168 and 192(1) TFEU and not on the basis of Article 349 TFEU.