Reports of Cases

JUDGMENT OF THE COURT (Grand Chamber)

15 December 2015*

(Actions for annulment — Regulation (EU) No 1385/2013 — Directive 2013/62/EU — Directive 2013/64/EU — Legal basis — Article 349 TFEU — Outermost regions of the European Union — Amendment of the status of Mayotte with regard to the European Union)

In Joined Cases C-132/14 to C-136/14,

ACTIONS for annulment under Article 263 TFEU, brought on 21 March 2014,

European Parliament, represented by I. Liukkonen (C-132/14) and by L. Visaggio and J. Rodrigues (C-132/14 and C-136/14), acting as Agents,

applicant in Cases C-132/14 and C-136/14,

European Commission, represented by R. Lyal (C-133/14 to C-135/14), W. Mölls (C-133/14 to C-135/14), D. Bianchi (C-133/14 and C-135/14) and D. Martin (C-133/14 and C-134/14), acting as Agents, with an address for service in Luxembourg,

applicant in Cases C-133/14 to C-135/14,

v

Council of the European Union, represented by A. Westerhof Löfflerová, E. Karlsson, F. Florindo Gijón and J. Czuczai, acting as Agents,

defendant,

supported by:

Kingdom of Spain, represented by M. Sampol Pucurull, acting as Agent,

French Republic, represented by G. de Bergues, F. Fize, D. Colas and N. Rouam, acting as Agents,

Portuguese Republic, represented by L. Inez Fernandes, B. Andrade Correia, M. Duarte and S. Marques, acting as Agents,

interveners,

* Language of the case: French.

THE COURT (Grand Chamber),

composed of K. Lenaerts, President, M. Ilešič, L. Bay Larsen, T. von Danwitz, J. L. da Cruz Vilaça, A. Arabadjiev (Rapporteur) and C. Toader, Presidents of Chambers, E. Levits, J.-C. Bonichot, A. Prechal, E. Jarašiūnas, C. G. Fernlund and C. Vajda, Judges,

Advocate General: N. Wahl,

Registrar: I. Illéssy, Administrator,

having regard to the written procedure and further to the hearing on 21 April 2015,

after hearing the Opinion of the Advocate General at the sitting on 25 June 2015,

gives the following

Judgment

1 By their applications in Cases C-132/14 and C-135/14 respectively, the European Parliament and the European Commission seek the annulment of 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 (OJ 2013 L 354, p. 86).

2 By their applications in Cases C-133/14 and C-136/14 respectively, the Commission and the Parliament seek the annulment of 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 (OJ 2013 L 353, p. 8).

3 By its application in Case C-134/14, the Commission seeks the annulment of 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 (OJ 2013 L 353, p. 7).

The contested acts

Regulation No 1385/2013

4 Recitals 1, 3, 4, 7 and 8 in the preamble to Regulation No 1385/2013 state:

‘(1) … Taking account of the particular structural social and economic situation of Mayotte, which is compounded by its remoteness, insularity, small size, difficult topography and climate, certain specific measures should be provided for in a number of areas.

…

(3) As regards Council Regulation (EC) No 850/98 [of 30 March 1998 for the conservation of fishery resources through technical measures for the protection of juveniles of marine organisms (OJ 1998 L 125, p. 1)], the waters around Mayotte, as a new outermost region, should be included within

the scope of that Regulation and the use of purse seines on tuna and tuna-like schools of fish inside the area within 24 miles from the baselines of the island should be prohibited, in order to preserve the shoals of large migratory fish in the vicinity of the island of Mayotte.

(4) As regards Regulation (EU) No 1379/2013 of the European Parliament and of the Council [of 11 December 2013 on the common organisation of the markets in fishery and aquaculture products, amending Council Regulations (EC) No 1184/2006 and (EC) No 1224/2009 and repealing Council Regulation (EC) No 104/2000 (OJ 2013 L 354, p. 1)], in view of the very fragmented and underdeveloped marketing schemes of Mayotte, the application of the rules on the labelling of fishery products would impose on retailers a burden disproportionate to the information that would be transmitted to the consumer. It is therefore appropriate to provide for a temporary derogation from the rules concerning the labelling of fishery products offered for retail sale to the final consumer in Mayotte.

...

(7) In view of the fact that France has presented to the Indian Ocean Tuna Commission (IOTC) a development plan describing the indicative size of the fleet of Mayotte and the expected evolution of the underdeveloped fleet of mechanical long-liners which are less than 23 metres in length and of purse-seiners based in Mayotte, as a new outermost region, to which no IOTC contracting party, including the Union, has objected, it is appropriate to use the reference levels of that plan as ceilings for the capacity of the fleet of mechanical long-liners which are less than 23 metres in length and of purse-seiners registered in the ports of Mayotte. By way of derogation from the generally applicable Union rules, and due to the current specific social and economic situation of Mayotte, sufficient time should be provided to allow France to increase the capacities of the underdeveloped segment of its fleet of smaller vessels until 2025.

(8) As regards Regulation (EC) No 1069/2009 of the European Parliament and of the Council [of 21 October 2009 laying down health rules as regards animal by-products and derived products not intended for human consumption and repealing Regulation (EC) No 1774/2002 (Animal by-products Regulation) (OJ 2009 L 300, p. 1)], it should be noted that Mayotte has no industrial capacity for the processing of animal by-products. It is therefore appropriate to allow France a period of five years in order to establish the infrastructure necessary for the identification, handling, transport, treatment and disposal of animal by-products in Mayotte in full compliance with Regulation (EC) No 1069/2009.'

5 Articles 1 to 4 of Regulation No 1385/2013 provide:

'Article 1

Amendments to Regulation (EC) No 850/98

Regulation (EC) No 850/98 is amended as follows:

(1) In Article 2(1), point (h) is replaced by the following:

"(h) Region 8

All waters off the coasts of the French departments of Réunion and Mayotte that fall under the sovereignty or jurisdiction of France.".

(2) The following article is inserted:

"Article 34g

Restrictions on fishing activities in the 24-mile zone around Mayotte

Vessels shall be prohibited from using any purse seine on tuna and tuna-like schools of fish inside the area within 24 miles of the coasts of Mayotte, as an outermost region within the meaning of Article 349 [TFEU], measured from the baselines from which territorial waters are measured.".

Article 2

Amendment to Regulation (EU) No 1379/2013

In Article 35 of Regulation (EU) No 1379/2013, the following paragraph is inserted:

"6. Until 31 December 2021, paragraphs 1, 2 and 3 shall not apply to products offered for retail sale to the final consumer in Mayotte, as an outermost region within the meaning of Article 349 TFEU.".

Article 3

Amendments to Regulation (EU) No 1380/2013

Regulation (EU) No 1380/2013 [of the European Parliament and of the Council of 11 December 2013 on the Common Fisheries Policy, amending Council Regulations (EC) No 1954/2003 and (EC) No 1224/2009 and repealing Council Regulations (EC) No 2371/2002 and (EC) No 639/2004 and Council Decision 2004/585/EC (OJ 2013 L 354, p. 22)] is amended as follows:

(1) In Article 23, the following paragraph is added:

"4. By way of derogation from paragraph 1, France shall be authorised, until 31 December 2025, to introduce new capacity without the withdrawal of an equivalent capacity for the various segments in Mayotte, as an outermost region within the meaning of Article 349 [TFEU] (hereinafter 'Mayotte'), referred to in Annex II."

(2) In Article 36, the following paragraphs are added:

"5. By way of derogation from paragraph 1, France shall be exempted until 31 December 2021 from the obligation to include in its register of Union fishing vessels those vessels which are less than 10 metres in overall length and which operate from Mayotte.

6. Until 31 December 2021, France shall keep a provisional register of fishing vessels which are less than 10 metres in overall length and which operate from Mayotte. That register shall contain at least the name, overall length and an identification code of each vessel. Vessels registered in the provisional register shall be considered to be vessels registered in Mayotte."

(3) The entries concerning Mayotte contained in the Annex to this Regulation shall be inserted into the table in Annex II to the Regulation (EU) No 1380/2013 after the entry "Guadeloupe: Pelagic species. L> 12m".

Article 4

Amendment to Regulation (EC) No 1069/2009

In Regulation (EC) No 1069/2009, Article 56 is replaced by the following:

"Article 56

Entry into force

This Regulation shall enter into force on the twentieth day following that of its publication in the *Official Journal of the European Union*.

It shall apply from 4 March 2011.

However, Article 4 shall apply to Mayotte, as an outermost region within the meaning of Article 349 [TFEU] (hereinafter 'Mayotte'), from 1 January 2021. Animal by-products and derived products generated in Mayotte before 1 January 2021 shall be disposed of in accordance with Article 19(1)(b) of this Regulation.

This Regulation shall be binding in its entirety and directly applicable in all Member States."'

Directive 2013/62

6 Article 1 of Directive 2013/62 provides:

'In Article 3(2) of [Council] Directive 2010/18/EU [of 8 March 2010 implementing the revised Framework Agreement on parental leave concluded by BUSINESSEUROPE, UEAPME, CEEP and ETUC and repealing Directive 96/34/EC (OJ 2010 L 68, p. 13)], the following subparagraph is added:

"By way of derogation from the first subparagraph, the additional period referred to therein shall be extended to 31 December 2018 as regards Mayotte as an outermost region of the Union within the meaning of Article 349 TFEU."'

Directive 2013/64

7 Recitals 1 to 9 in the preamble to Directive 2013/64 state:

'(1) … Taking account of the particular structural social and economic situation of Mayotte, certain specific measures should be provided for in a number of areas.

(2) It is appropriate to take account of the particular situation in Mayotte as regards the state of the environment, which needs to be considerably improved for it to comply with environmental objectives laid down by Union law, and for which additional time is needed. Specific measures in order to gradually improve the environment should be adopted within specific time-limits.

(3) In order to comply with the requirements of Council Directive 91/271/EEC [of 21 May 1991 concerning urban waste water treatment (OJ 1991 L 135, p. 40)], measures need to be taken in Mayotte to ensure that agglomerations are provided with collecting systems for urban waste water. Such measures call for infrastructure works that should follow appropriate administrative and planning procedures and, furthermore, require the establishment of systems for measuring

and monitoring urban waste water discharges. Due to the specific structural and economic situation of Mayotte, a sufficient period of time should be granted to France to allow those requirements to be met.

(4) In the field of agriculture, as regards Council Directive 1999/74/EC [of 19 July 1999 laying down minimum standards for the protection of laying hens (OJ 1999 L 203, p. 53)], it is noted that, in Mayotte, laying hens are reared in unenriched cages. In view of the considerable investment and preparatory work required to replace unenriched cages by enriched cages or alternative systems, it is necessary to postpone the prohibition of using unenriched cages for a period of up to 48 months from 1 January 2014. In order to prevent distortions of competition, eggs derived from establishments using unenriched cages should be marketed only on the local market of Mayotte. In order to facilitate the necessary controls, eggs produced in unenriched cages should bear a special mark.

(5) In respect of Directive 2000/60/EC of the European Parliament and of the Council [of 23 October 2000 establishing a framework for Community action in the field of water policy (OJ 2000 L 327, p. 1)], the proper implementation of that Directive as regards river basin management plans requires that France adopts and implements management plans containing technical and administrative measures to achieve good water status for, and to prevent the deterioration of, all bodies of surface waters. Due to the specific structural and economic situation of the new outermost region of Mayotte, a sufficient period of time should be granted for the adoption and implementation of such measures.

(6) In respect of Directive 2006/7/EC of the European Parliament and of the Council [of 15 February 2006 concerning the management of bathing water quality and repealing Directive 76/160/EEC (OJ 2006 L 64, p. 37)], the current state of surface waters in Mayotte needs to be considerably improved for them to comply with the requirements of that Directive. The quality of bathing waters depends directly upon urban waste water treatment, and the provisions of Directive 2006/7/EC may only be complied with progressively once agglomerations that affect the quality of urban waste waters comply with the requirements of Directive 91/271/EEC. Therefore, specific time-limits need to be adopted in order to allow France to meet the Union standards as regards bathing water quality in Mayotte as a new outermost region and due to its special social and economic situation.

(7) In the area of social policy, account should be taken of the difficulties to comply with Directive 2006/25/EC of the European Parliament and of the Council [of 5 April 2006 on the minimum health and safety requirements regarding the exposure of workers to risks arising from physical agents (artificial optical radiation) (19th individual Directive within the meaning of Article 16(1) of Directive 89/391/EEC) (OJ 2006 L 114, p. 38)] in Mayotte as of 1 January 2014. Due to its prevailing special social and economic situation, there are no technical facilities available in Mayotte for the implementation of measures necessary to comply with that Directive in the field of artificial optical radiation. Therefore, it is appropriate to grant a derogation to France from certain provisions of that Directive until 31 December 2017, provided that such facilities are not available in Mayotte and without prejudice to the general principles of protection and prevention in the area of health and safety of workers.

(8) In order to guarantee a high level of protection of the health and safety of workers at work, consultation with the social partners should be ensured, the risks resulting from the derogation should be reduced to a minimum and the workers concerned should benefit from reinforced health surveillance. It is important to reduce the duration of the derogation as much as possible. Therefore, the national derogating measures should be reviewed every year and should be withdrawn as soon as the circumstances justifying them no longer subsist.

(9) In respect of Directive 2011/24/EU of the European Parliament and of the Council [of 9 March 2011 on the application of patients' rights in cross-border healthcare (OJ 2011 L 88, p. 45)], its transposition requires a number of adaptations to ensure continuity of care and information to patients. It is therefore appropriate to grant France an additional period of 30 months from 1 January 2014 to bring into force the provisions necessary to comply with that Directive in respect of Mayotte.'

8 Articles 1 to 6 of Directive 2013/64 provide:

'Article 1

Amendments to Directive 91/271/EEC

Directive 91/271/EEC is amended as follows:

(1) In Article 3, the following paragraph is inserted:

"(1a) By way of derogation from the first and second subparagraphs of paragraph 1, in respect of Mayotte as an outermost region within the meaning of Article 349 [TFEU] (hereinafter 'Mayotte'), France shall ensure that all agglomerations are provided with collecting systems for urban waste water:

— by 31 December 2020 at the latest for agglomerations of more than 10 000 [population equivalent], which will cover at least 70% of the load generated in Mayotte;

— by 31 December 2027 at the latest for agglomerations of more than 2 000 [population equivalent].".

(2) In Article 4, the following paragraph is inserted:

"(1a) By way of derogation from paragraph 1, in respect of Mayotte, France shall ensure that urban waste water entering collecting systems is, before discharge, subject to secondary treatment or an equivalent treatment:

— by 31 December 2020 at the latest for agglomerations of more than 15 000 [population equivalent], which, along with the agglomerations referred to in Article 5(2a), will cover at least 70% of the load generated in Mayotte;

— by 31 December 2027 at the latest for agglomerations of more than 2 000 [population equivalent].".

(3) In Article 5 the following paragraph is added:

"(2a) By way of derogation from paragraph 2, in respect of Mayotte, France shall ensure that urban waste water entering collecting systems shall before discharge into sensitive areas be subject to more stringent treatment than that described in Article 4 by 31 December 2020 at the latest for agglomerations of more than 10 000 [population equivalent], which, along with the agglomerations referred to in Article 4(1a), will cover at least 70% of the load generated in Mayotte.".

(4) In Article 7, the following paragraph is added:

"By way of derogation from the first paragraph, in respect of Mayotte, the time-limit defined therein shall be 31 December 2027.".

(5) Article 17 is amended as follows:

(a) In paragraph 1, the following subparagraph is added:

"By way of derogation from the first subparagraph, in respect of Mayotte, France shall establish a programme for the implementation of this Directive by 30 June 2014.".

(b) In paragraph 2, the following subparagraph is added:

"By way of derogation from the first subparagraph, in respect of Mayotte, France shall provide the Commission with information on the programme by 31 December 2014.".

Article 2

Amendment to Directive 1999/74/EC

In Article 5 of Directive 1999/74/EC, the following paragraph is added:

"3. By way of derogation from paragraph 2, in Mayotte as an outermost region within the meaning of Article 349 [TFEU] (hereinafter 'Mayotte'), laying hens may continue to be reared in cages as referred to in this Chapter until 31 December 2017.

From 1 January 2014, no cages as referred to in this Chapter may be built or brought into service for the first time in Mayotte.

Eggs derived from establishments rearing laying hens in cages as referred to in this Chapter shall only be placed on the local market of Mayotte. Those eggs and their packs shall be clearly identified with a special mark, so as to allow the necessary controls. A clear description of this special mark shall be communicated to the Commission by 1 January 2014.".

Article 3

Amendments to Directive 2000/60/EC

Directive 2000/60/EC is hereby amended as follows:

(1) Article 4 is amended as follows:

(a) in paragraph 1, the following subparagraph is added:

"As regards Mayotte as an outermost region within the meaning of Article 349 [TFEU] (hereinafter 'Mayotte'), the time-limit referred to in points (a)(ii), (a)(iii), (b)(ii) and (c) shall be 22 December 2021.".

(b) in paragraph 4, the introductory sentence is replaced by the following:

"The time-limits laid down in paragraph 1 may be extended for the purposes of phased achievement of the objectives for bodies of water, provided that no further deterioration occurs in the status of the affected body of water when all the following conditions are met:".

(2) Article 11 is amended as follows:

(a) in paragraph 7, the following subparagraph is added:

"As regards Mayotte, the time-limits referred to in the first subparagraph shall be 22 December 2015 and 22 December 2018, respectively.".

(b) in paragraph 8, the following subparagraph is added:

"As regards Mayotte, the time-limit referred to in the first subparagraph shall be 22 December 2021.".

(3) Article 13 is amended as follows:

(a) in paragraph 6, the following subparagraph is added:

"As regards Mayotte, the time-limit referred to in the first subparagraph shall be 22 December 2015.".

(b) in paragraph 7, the following subparagraph is added:

"As regards Mayotte, the time-limit referred to in the first subparagraph shall be 22 December 2021.".

Article 4

Amendments to Directive 2006/7/EC

Directive 2006/7/EC is hereby amended as follows:

(1) Article 5 is amended as follows:

(a) in paragraph 2, the following subparagraph is added:

"As regards Mayotte as an outermost region within the meaning of Article 349 [TFEU] (hereinafter 'Mayotte'), the time-limit referred to in the first subparagraph shall be 31 December 2019.".

(b) in paragraph 3, the following subparagraph is added:

"As regards Mayotte, the time-limit referred to in the first subparagraph shall be 31 December 2031.".

(2) In Article 6(1), the following subparagraph is added:

"As regards Mayotte, the time-limit referred to in the first subparagraph shall be 30 June 2015.".

(3) In Article 13(2), the following subparagraph is added:

"As regards Mayotte, the time-limit referred to in the first subparagraph shall be 30 June 2014.".

Article 5

Amendment to Directive 2006/25/EC

In Directive 2006/25/EC, the following Article is added:

"Article 14a

1. Without prejudice to the general principles of protection and prevention in the area of health and safety of workers, France may, until 31 December 2017, derogate from the application of the provisions necessary to comply with this Directive in Mayotte as an outermost region within the meaning of Article 349 [TFEU] (hereinafter 'Mayotte'), provided that such application requires specific technical facilities that are not available in Mayotte.

The first subparagraph does not apply to the obligations set out in Article 5(1) of this Directive, or to the provisions of this Directive which reflect the general principles laid down in [Council] Directive [89/391/EEC of 12 June 1989 on the introduction of measures to encourage improvements in the safety and health of workers at work (OJ 1989 L 183, p. 1)].

2. All derogations from this Directive resulting from the application of measures existing on 1 January 2014 or from the adoption of new measures shall be preceded by a consultation with the social partners in accordance with national law and practice. Such derogations shall be applied under conditions which, taking into account the particular circumstances prevailing in Mayotte, guarantee that the resulting risks for workers are reduced to a minimum and that the workers concerned benefit from reinforced health surveillance.

3. The national derogating measures shall be reviewed every year, after consultation with the social partners, and shall be withdrawn as soon as the circumstances justifying them no longer subsist.".

Article 6

Amendment to Directive 2011/24/EU

In Article 21 of Directive 2011/24/EU, the following paragraph is added:

"3. By way of derogation from the first sentence of paragraph 1, France shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive in respect of Mayotte as an outermost region within the meaning of Article 349 TFEU by 30 June 2016.".'

Background to the dispute

9 Pursuant to European Council Decision 2012/419/EU of 11 July 2012 amending the status of Mayotte with regard to the European Union (OJ 2012 L 204, p. 131), Mayotte ceased, from 1 January 2014, to be one of the overseas countries and territories within the meaning of Article 355(2) TFEU and became an outermost region within the meaning of Article 349 TFEU. By that decision, references to Mayotte were inserted in the first paragraph of Article 349 TFEU and in Article 355(1) TFEU, whilst in Annex II to the FEU Treaty, which lays down the list of 'overseas countries and territories to which the provisions of Part Four of [that Treaty] apply', the sixth indent, worded 'Mayotte' was deleted.

10 Following a number of requests from the French authorities, the Commission acknowledged that the French Republic, which was required by Decision 2012/419 to apply the entire acquis of EU law in Mayotte from 1 January 2014, nevertheless had to be granted additional periods to comply with that obligation.

11 To that end, the Commission adopted on 13 June 2013 the proposal for a Regulation of the European Parliament and of the Council amending certain Regulations in the field of fisheries and animal health by reason of the change of status of Mayotte with regard to the Union (COM(2013) 417 final), the

proposal for a Council Decision amending Directive 2010/18/EU because of the change in status of Mayotte (COM(2013) 413 final) and the proposal for a Directive of the European Parliament and of the Council amending certain Directives in the fields of environment, agriculture, social policy and public health by reason of the change of status of Mayotte with regard to the Union (COM(2013) 418 final). Those proposals were respectively founded on:

— Articles 43(2) TFEU and 168(4)(b) TFEU, which prescribe the ordinary legislative procedure and require the European Economic and Social Committee (EESC) and the Committee of the Regions of the European Union to be consulted;

— Article 155(2) TFEU, which provides that the Council is to act on a proposal from the Commission, the European Parliament being informed; and

— Articles 43(2) TFEU, 114 TFEU, 153(2) TFEU, 168 TFEU and 192(1) TFEU, which prescribe the ordinary legislative procedure and require the EESC and the Committee of the Regions to be consulted.

12 Since the Council took the view that the forthcoming acts all had to be adopted on the basis of Article 349 TFEU and in accordance with a special legislative procedure, it submitted the Commission's proposals to the Parliament for an opinion. Those proposals were also sent to the national parliaments.

13 On 12 December 2013, the Parliament adopted its 'position[s] at first reading' on the proposal for a regulation COM(2013) 417 final and the proposal for a directive COM(2013) 418 final. In those positions, the Parliament indicated that the forthcoming acts had to be adopted 'in accordance with the ordinary legislative procedure' but that, as specifically regards the forthcoming regulation, the legal basis had to comprise Article 349 TFEU in addition to Articles 43(2) TFEU and 168(4)(b) TFEU. So far as concerns the forthcoming act in respect of the proposal for a decision COM(2013) 413 final, the Parliament, noting that it had been 'consulted' in accordance with Article 349 TFEU on the Council draft, approved, by a legislative resolution of the same date, 'the Council draft as amended'.

14 On 17 December 2013, the Council, '[a]cting in accordance with a special legislative procedure', adopted — citing 'the [FEU Treaty], and in particular 349 thereof', as legal basis and after an 'opinion of the … Parliament [of 12 December 2013]' — Regulation No 1385/2013, Directive 2013/62 and Directive 2013/64 (collectively 'the contested acts').

Procedure before the Court and forms of order sought

15 By decision of the President of the Court of 29 April 2014, the present cases were joined for the purposes of the written and oral parts of the procedure and of the judgment.

16 The Parliament claims that the Court should:

— annul Regulation No 1385/2013 and Directive 2013/64;

— maintain the effects of the aforesaid regulation and directive until acts replacing them founded on the appropriate legal bases have entered into force; and

— order the Council to pay the costs.

17 The Commission claims that the Court should:

— annul the contested acts;

— maintain the effects of the contested acts until acts replacing them founded on the appropriate legal bases have entered into force; and

— order the Council to pay the costs.

18 The Council contends that the Court should:

— dismiss the actions;

— in the alternative, if the contested acts are wholly or partially annulled, maintain their effects until acts replacing them founded on the appropriate legal bases have entered into force; and

— order the Parliament and the Commission to pay the costs.

19 By decision of the President of the Court of 29 July 2014, the Kingdom of Spain, the French Republic and the Portuguese Republic were granted leave to intervene in support of the form of order sought by the Council.

The actions

20 In support of their respective actions, the Parliament and the Commission put forward a single plea, to the effect that the Council, by adopting the contested acts on the basis of Article 349 TFEU, chose the wrong legal basis.

Arguments of the parties

Arguments of the Commission

21 The Commission submits that Article 349 TFEU applies only where derogation from the application of primary law to the outermost regions is involved. Where there is no such derogation, the legal basis for an act that merely adapts a policy to those regions, as was the case in respect of the contested acts, should be sought in the provisions relating to that policy.

22 The Commission points out that Article 355(1) TFEU states that '[t]he provisions of the Treaty shall apply' to the outermost regions 'in accordance with Article 349 [TFEU]'. It follows that Article 349 TFEU enables only derogation from the application of the 'provisions of the Treaty' to those regions.

23 In this connection, it follows from Article 52 TEU that, whilst 'the Treaties' are applicable to all the Member States, their territorial scope is specified in Article 355 TFEU. Thus, in the Commission's view, the links between those two provisions mean that the term 'Treaties' which they use excludes secondary legislation. Indeed, details relating to the geographical scope of a rule of secondary law are normally set out in that rule itself and are not affected by either Article 355 TFEU or Article 52 TEU.

24 As regards Article 349 TFEU more specifically, the Commission states that it cannot be read as authorising the Council to adopt any 'specific measure' advantageous to the outermost regions referred to in it. It permits only the adoption of measures in the light of the 'structural social and economic situation' of those regions and of the factors, exhaustively listed in its first paragraph, which compound that situation.

25 In so far as the 'specific measures' provided for in Article 349 TFEU are 'aimed, in particular, at laying down the conditions of application of the Treaties' to the regions concerned, the term 'in particular' denotes that that article covers any measure derogating from the Treaties, whether or not it consists in laying down such 'conditions of application'. On the other hand, that article does not permit the Council to lay down 'conditions of application' of secondary legislation.

26 Such an interpretation cannot be affected either by the words 'including common policies' used in the first paragraph of Article 349 TFEU or by the non-exhaustive list of those policies in the second paragraph of Article 349 TFEU. The use of those words and the presence of that list merely underscore that the scope of Article 349 TFEU is not restricted to certain specific policy areas, and does not mean that the field of application of that article should be extended to an extent such that the Council would be empowered, on the basis thereof, to adopt measures derogating from secondary legislation.

27 The Commission submits that the system of legal bases in the FEU Treaty supports its line of argument. Each of those legal bases, with the exception of Article 349 TFEU, relates to a given policy, taken as a whole, and grants the EU legislature a wide discretion, with a view to taking account of any relevant factor. It follows that geographical differentiation is permitted, provided that the principle of equal treatment is observed. Therefore, differential treatment in favour of an outermost region can be justified by the existence in that region of one or more of the factors listed in Article 349 TFEU without that affecting the legal basis applicable to that treatment.

28 Finally, the Commission requests the Court to maintain the effects of the contested acts, since its actions do not concern their actual content.

Arguments of the Parliament

29 The Parliament submits that Regulation No 1385/2013 and Directive 2013/64 simultaneously pursue a number of objectives and have several components that are indissociably linked, without some being secondary and indirect in relation to the others. Thus those acts should have been founded on the various corresponding legal bases.

30 According to the Parliament, Article 349 TFEU cannot have any supremacy over the sectoral legal bases as regards measures intended to implement a given policy, albeit in one or more outermost regions, as otherwise the structure of the FEU Treaty, and the institutional balance in the adoption of the measures envisaged by it, would be undermined. The provisions governing EU policies apply also to the outermost regions.

31 It follows, in the Parliament's view, that the measures implementing those policies must be adopted on the legal bases established in Part Three of the FEU Treaty. The fact that a measure relates, in whole or in part, to one or more outermost regions is immaterial in this regard. The decisive criterion is whether that measure pursues objectives particular to the policy concerned, without however constituting a specific measure for outermost regions within the meaning of Article 349 TFEU.

32 In this regard, the Parliament submits that it follows from the wording of Article 349 TFEU that that provision enables only the adoption of 'specific measures' designed to compensate for the disadvantages caused by the 'special characteristics and constraints' which differentiate the region or regions concerned from the rest of the territory of the European Union.

33 It follows in particular from the purpose stated in the first paragraph of Article 349 TFEU, according to which those measures are aimed, 'in particular, at laying down the conditions of application of the Treaties to those regions, including common policies', and from the safeguard laid down in the third

paragraph of Article 349 TFEU, which provides that those measures must be adopted 'without undermining the integrity and the coherence of the Union legal order, including … common policies', that Article 349 TFEU concerns only derogations from the full application of EU law.

34 Therefore, the scope of that article does not encompass measures which do not introduce any derogation from otherwise applicable rules but merely postpone the application of certain provisions of EU law to an outermost region.

35 In the case of Directive 2013/64, it is apparent from its recitals that it has the objective, by granting transitional periods, of facilitating the full application so far as concerns Mayotte of various directives in the fields of the environment, agriculture, social policy and public health.

36 The difficulties encountered in respect of full application of those directives in that region do not stem either from its 'structural social and economic situation' or from the existence of one or more aggravating factors, as exhaustively listed in the first paragraph of Article 349 TFEU. Such difficulties could concern any region subject to the obligation to comply, from a specified date, with requirements which were not applicable to it previously.

37 Therefore, according to the Parliament, the amendments made by Directive 2013/64 should have had as their legal basis the bases corresponding to the sectoral directives concerned and could not be founded on Article 349 TFEU.

38 So far as concerns Regulation No 1385/2013, the Parliament states that Article 1 is intended to implement the objectives of the common fisheries policy. The fact that the fragile marine environment which must be protected is located in the waters of an outermost region is not relevant, as such a situation may arise in any other region of the European Union. Thus, the measures adopted by the Council in that regulation are not designed to compensate for the disadvantages due to 'the structural social and economic situation' of Mayotte.

39 The Parliament adds that the fact that a given measure, adopted in the field of the common fisheries policy, may also be designed to have positive effects economically and socially and in the employment field is not such as to take the measure outside that policy.

40 As regards Article 2 of Regulation No 1385/2013, the amendment in question is only a transitional measure designed to enable full application of secondary legislation in Mayotte and should therefore, according to the Parliament, have been adopted on the sectoral basis constituted by Article 43(2) TFEU.

41 As to Article 3 of Regulation No 1385/2013, the Parliament concedes that the measures in Article 3(1) and (2) represent a derogation and were adopted in the light of the particular 'economic and structural situation' of Mayotte. Accordingly, Article 349 TFEU did in fact constitute the appropriate legal basis for the adoption of those measures.

42 On the other hand, in amending, by Article 3(3) of Regulation No 1385/2013, the table on fishing capacity ceilings set out in Annex II to Regulation No 1380/2013 without limiting the number of fishing vessels operating from Mayotte, the Council did not adopt a 'specific measure' in the light of the 'structural social and economic situation' of Mayotte and of the aggravating factors exhaustively listed in the first paragraph of Article 349 TFEU. That measure should therefore have had Article 43(2) TFEU as its legal basis.

43 Since Article 4 of Regulation No 1385/2013 merely deferred the entry into force of Article 4 of Regulation No 1069/2009 in Mayotte until 1 January 2021, the Parliament submits that that measure should have been adopted on the basis of Article 168(4)(b) TFEU. In particular, a situation similar to that affecting Mayotte, that is to say, the lack of an animal by-product processing industry, could arise in any other region of the European Union.

44 The Parliament observes that Article 5 of Regulation No 1385/2013 provides for a temporary exemption from certain rules so far as concerns control of the segment of Mayotte's fleet comprising vessels less than 10 metres in length, while imposing a simplified and provisional scheme of control. As such a measure is justified by the need, first, 'to train fishermen and controllers and to set up the appropriate administrative and physical infrastructure', and, secondly, to attain 'at least some of the most important objectives of [Council] Regulation (EC) No 1224/2009 [of 20 November 2009 establishing a Community control system for ensuring compliance with the rules of the common fisheries policy, amending Regulations (EC) No 847/96, (EC) No 2371/2002, (EC) No 811/2004, (EC) No 768/2005, (EC) No 2115/2005, (EC) No 2166/2005, (EC) No 388/2006, (EC) No 509/2007, (EC) No 676/2007, (EC) No 1098/2007, (EC) No 1300/2008, (EC) No 1342/2008 and repealing Regulations (EEC) No 2847/93, (EC) No 1627/94 and (EC) No 1966/2006 (OJ 2009 L 343, p. 1)]', it constitutes a derogation, so that it could be covered by Article 349 TFEU.

45 In the light of those considerations, the Parliament submits that, in the case of Regulation No 1385/2013, the conditions for applying simultaneously the various legal bases provided for in Articles 43(2) TFEU, 168(4)(b) TFEU and 349 TFEU were met.

Arguments of the Council

46 The Council contends that Article 349 TFEU constitutes a specific legal basis, having a limited geographical scope, which prevails over sectoral legal bases and which should be used when it is a matter of adopting specific measures aimed at laying down, in particular, the conditions of application of EU law, including secondary legislation, while taking account of the adverse situation, as described in that article, of the outermost regions.

47 According to the Council, all the measures set out in the contested acts, whatever their duration, are designed to assist Mayotte in accordance with the requirements laid down in Article 349 TFEU and the fact that transitional periods might be granted on a sectoral legal basis does not affect that analysis in the slightest.

48 The Council further submits that the conditions for using multiple legal bases in order to adopt Regulation No 1385/2013 and Directive 2013/64 were not met. First, the measures that they set out, which relate to a number of distinct fields and are not indissociably linked with one another, were brought together in those acts only in the 'interest of simplicity and rapidity'. Secondly, that regulation and that directive pursue a main and predominant objective, namely the adoption of specific measures having regard to the situation of Mayotte, a fact which justified use of Article 349 TFEU alone.

49 The Council disputes, in particular, that Article 1 of Regulation No 1385/2013 and Directives 2013/62 and 2013/64 contain sectoral policy measures. The objective pursued by the restriction on fishing activities which that article lays down is to 'preserve the shoals of large migratory fish in the vicinity of the island of Mayotte' for the benefit of Mayotte's artisanal fleet of longline fishing vessels and thereby to permit development of the local industry.

50 As that fleet cannot compete effectively with more efficient vessels using purse seines, the aim of that measure is to allow it to have a limited area reserved for it in order to be able to benefit from the passing of shoals of large migratory fish in that area.

51 The Council adds that Article 1 of Regulation No 1385/2013 seeks, in so doing, to compensate for the handicaps arising from the structural social and economic situation of Mayotte and thus falls within the scope of Article 349 TFEU.

52 Finally, the Council observes that Directive 2013/62 was addressed to the French Republic, that neither Article 151 TFEU nor Article 153 TFEU mentions the specific objective consisting in assisting the outermost regions and that the legal conditions set out in Article 155(2) TFEU were not met in this instance.

Arguments of the interveners

53 The French Government submits that the objective pursued by Article 349 TFEU is to permit the adoption of specific measures on account of structural handicaps and that, consequently, that article may serve as a basis for measures designed to take account of particular factors which, without being economic or social in the strict sense, specifically affect an outermost region, such as environmental factors like climate or the fragility of its marine areas. Article 349 TFEU does not require that the specific measures for which it provides be adopted in order to 'deal with' the specific social or economic situation of the region concerned but only that they be adopted '[t]aking account' of that situation.

54 The French Government explains that the measures laid down by Regulation No 1385/2013 were dictated by characteristics and constraints specific to Mayotte and that the structural economic, social and environmental situation of that region provides their justification. They are necessary in order, in particular, to protect the local ecosystem given its fragility and to safeguard the local economy, in the light of the fragmented and underdeveloped nature of the systems for processing and marketing fishery products, the characteristics of the Mayotte fleet, and the lack of training of fishermen and controllers for the controlling of fishing activities.

55 The measures laid down by Directive 2013/64 are also designed to respond to the specific features of Mayotte so far as concerns, in particular, the state of the environment, economic backwardness and the lack of infrastructure, features which constitute structural handicaps.

56 As for the measure introduced by Directive 2013/62, it is apparent from the preamble to the directive that it is designed to take account of the difficult social and economic situation of Mayotte, which is characterised by an underdeveloped labour market, by a low employment rate due to Mayotte's remoteness, insularity, topography and difficult climate, by a low domestic product and by the need to avoid any destabilisation of the local economy.

57 The French Government adds that, contrary to the Parliament's assertions, the contested acts do not have as their main objective the guaranteeing of the application of the acquis of EU law in Mayotte at the end of the transitional periods which they lay down, since such application flows directly from Article 355(1) TFEU.

58 The Spanish Government states that the interpretation of Article 349 TFEU put forward by the Commission would prevent that provision from being given practical effect since, if that interpretation were upheld, it would be impossible to adopt specific measures in the fields, governed by secondary legislation, of 'free zones' and 'horizontal … programmes'.

59 Furthermore, according to the Spanish Government, if the aim of Article 349 TFEU is to define the specific measures which may be adopted in relation to the application of the Treaties, provisional or transitional measures taking account of the characteristics of the regions concerned and designed to

ensure full application of the acquis of EU law to them eventually can for all the more reason be adopted on the basis of that provision. In this regard, Article 349 TFEU does not distinguish between measures having substantive content and measures of a temporary nature.

60 As regards the contested acts, the Spanish Government observes that their main objective, as recital 1 of each of them underscores, is to adapt secondary legislation to the structural social and economic situation of Mayotte. Furthermore, since the measures introduced by those acts have the aim of laying down the conditions of application of the Treaties, including as regards secondary legislation, Article 349 TFEU is the predominant legal basis.

61 The Portuguese Government submits that it is clear on reading various provisions of the Treaties that in the absence of an express provision to the contrary the terms 'Treaties' and 'application of the Treaties' must be understood as denoting 'EU law' and 'EU legal acquis', including secondary legislation.

62 Furthermore, the criterion put forward by the Parliament which would enable a distinction to be drawn between permanent and temporary derogations is not in any way supported by the wording of Article 349 TFEU.

63 Therefore, Article 349 TFEU is presented as a specific legal basis whose significance is apparent from the fact that that article (i) defines the concept of 'outermost region' (identification of the territories), (ii) specifies the substantive field of application of the differentiating measures (any area where EU law applies), (iii) sets the limits of the Council's decision-making power (the measures may not 'undermin[e] the integrity and the coherence of the Union legal order') and (iv) constitutes an authorising provision furnishing a legal basis and identifying both the procedure to be followed (decision of the Council, on a proposal from the Commission and after consulting the Parliament) and the nature of the specific measures to be adopted (they must have the aim of alleviating the structural inequality of the regions concerned).

Findings of the Court

64 It should be noted first of all that Article 52 TEU provides, in its first paragraph, that the Treaties are to apply to the Member States and, in its second paragraph, that the territorial scope of the Treaties is specified in Article 355 TFEU.

65 Under Article 355(1) TFEU, as amended by Article 2 of Decision 2012/419, the provisions of the Treaties are to apply to the outermost regions, one of which is Mayotte, in accordance with Article 349 TFEU.

66 The first paragraph of Article 349 TFEU, as amended by Article 2 of Decision 2012/419, provides that the Council 'shall adopt specific measures aimed, in particular, at laying down the conditions of application of the Treaties to those regions, including common policies'.

67 It is also apparent from the first paragraph of Article 349 TFEU that the 'specific measures' which it concerns are adopted '[t]aking account' of the 'structural social and economic situation' of the outermost regions, which 'is compounded' by a number of factors 'the permanence and combination of which severely restrain their development'.

68 Those factors are thus presented in the first paragraph of Article 349 TFEU as matters that compound the structural social and economic situation of the outermost regions which the Council must take into consideration, under the third paragraph of Article 349 TFEU, when adopting the specific measures.

69 Whilst, accordingly, the Parliament is not correct in asserting that any specific measure, within the meaning of Article 349 TFEU, must be justified not only by the structural social and economic situation of the outermost region concerned but also by the existence of at least one of the factors exhaustively listed in the first paragraph of Article 349 TFEU particular to that region, the fact remains that the Council must be able, in accordance with the third paragraph of Article 349 TFEU, to put forward matters establishing a connecting factor between the specific measure envisaged and special characteristics and constraints of the outermost region at issue.

70 In addition, it is stated in the second paragraph of Article 349 TFEU that specific measures adopted by the Council pursuant to its first paragraph concern 'in particular areas such as customs and trade policies, fiscal policy, free zones, agriculture and fisheries policies, conditions for supply of raw materials and essential consumer goods, State aids and conditions of access to structural funds and to horizontal Union programmes'.

71 Thus, it is clear from the wording of Article 349 TFEU that it enables the Council to adopt, in particular in the areas referred to in the preceding paragraph of the present judgment, specific measures designed to take account of the structural social and economic situation of the outermost regions.

72 As regards the Commission's argument that Article 349 TFEU enables only derogation from the application of primary law to the outermost regions and not, as was the case in this instance, adaptation of acts of secondary legislation to the particular situation of those regions, it should first of all be pointed out that the 'conditions of application of the Treaties', within the meaning of that article, must be understood as covering both the conditions relating to the application of primary EU law and those relating to the application of the acts of secondary legislation adopted on the basis of that primary law.

73 This interpretation is borne out by the Court's interpretation of Article 227(2) of the EC Treaty (which became Article 299(2) EC, and now Article 349 TFEU), according to which the authorisation conferred on the Council by that provision to lay down specific measures designed to meet the needs of overseas territories concerns both the provisions of the Treaty and those of secondary legislation (judgment in *Hansen & Balle*, 148/77, EU:C:1978:173, paragraph 11).

74 Next, as the Council has observed, a number of the areas referred to in the second paragraph of Article 349 TFEU are governed for the most part by acts of secondary legislation. Therefore, the practical effect of that provision would be affected if, in those areas, it authorised only the adoption of specific measures aimed at laying down the conditions of application of primary law.

75 Finally, as the Advocate General has observed in point 57 of his Opinion, acts of secondary legislation, contrary to what the Commission seems to assert, do not all define their territorial scope.

76 It follows that, in the absence of detail in that respect, the scope of an act of secondary legislation must, as the French Government in particular has submitted, be determined on the basis of Articles 52 TEU and 355 TFEU.

77 Indeed, the Court has already had occasion to state that secondary legislation applies in principle to the same area as the Treaties themselves and applies automatically in that area (see, to this effect, judgments in *Commission* v *Ireland*, 61/77, EU:C:1978:29, paragraph 46, and *Hansen & Balle*, 148/77, EU:C:1978:173, paragraph 11).

78 Consequently, it follows from the wording and the objectives of Article 349 TFEU and from the scheme of the Treaties that, as regards the outermost regions, the territorial scope of the entire acquis of EU law is defined in particular by Article 52 TEU read in conjunction with Article 355(1) TFEU and by the measures adopted pursuant to Article 349 TFEU.

79 Therefore, contrary to the Commission's assertions, Article 349 TFEU empowers the Council to adopt specific measures aimed at laying down the conditions of application to those regions not only of the provisions of the Treaties but also of provisions of secondary legislation.

80 Accordingly, the Commission's actions in Cases C-133/14 to C-135/14, which are based exclusively on the contrary proposition, must be dismissed.

81 So far as concerns the Parliament's line of argument that Article 349 TFEU does not empower the Council to adopt measures whose sole aim is to defer the application of certain provisions of EU law to outermost regions, it must be stated that that article does not restrict the Council's decision-making power to a particular category of measures.

82 Apart from the fact that the word 'measure' covers any type of action that may be carried out by the Council, the use of the words 'in particular' in Article 349 TFEU signifies that the authors of the FEU Treaty did not intend to lay down an exhaustive list of the types of measures that may be adopted on the basis of that article.

83 Consequently, the Council and the Spanish and Portuguese Governments are justified in asserting that the distinction drawn by the Parliament between derogations from provisions of EU law, on the one hand, and mere postponements of their applicability, on the other, is not in any way supported by the wording of that article.

84 Such a limitation would also be contrary to the objectives pursued by Article 349 TFEU, since there is nothing to preclude postponement of the full applicability of a provision of EU law from proving to be the most appropriate measure for taking account of the structural social and economic situation of an outermost region.

85 It must be examined in the present case whether the contested acts satisfy the requirements set out in paragraphs 67 to 69 of the present judgment.

86 As regards, in the first place, Regulation No 1385/2013, it should be noted, first, that Article 1(1) of that regulation added to 'Region 8', as defined by Regulation No 850/98, the waters off the coasts of Mayotte that fall under the sovereignty or jurisdiction of the French Republic and that Article 2(2) inserted in Regulation No 850/98 Article 34g prohibiting vessels from using any purse seine on tuna and tuna-like shoals of fish inside the area within 24 miles of the coasts of Mayotte, measured from the baselines from which territorial waters are measured.

87 It is apparent from recitals 3 and 7 of Regulation No 1385/2013, read together and as explained by the Council before the Court, that the objective of those measures is to preserve the shoals of large migratory fish in the vicinity of Mayotte for the benefit of the local fleet which, being an underdeveloped fleet of longliners, cannot match foreign fleets. It follows that those measures were adopted taking account of the structural social and economic situation of Mayotte. Therefore, the Council could lawfully act on the basis of Article 349 TFEU in order to adopt them.

88 Secondly, Article 2 of Regulation No 1385/2013 amended Article 35 of Regulation No 1379/2013 by adding paragraph 6, which provides that until 31 December 2021 Article 35(1), (2) and (3) will not apply to products offered for retail sale to the final consumer in Mayotte.

89 As is apparent from recital 4 of Regulation No 1385/2013, that measure was justified by the Council by the need to take account of the 'very fragmented and underdeveloped marketing schemes of Mayotte' and to prevent the premature application of the rules on the labelling of fishery products from imposing on retailers a burden disproportionate to the information that would be transmitted to the consumer.

90 That measure was therefore adopted taking account of the structural social and economic situation of Mayotte. It follows that the Council was able to act on the basis of Article 349 TFEU in order to adopt it.

91 Thirdly, given that the Parliament does not dispute that the measures set out in Article 3(1) and (2) of Regulation No 1385/2013 could be founded on Article 349 TFEU, it is not incumbent on the Court to verify whether those measures were adopted in compliance with the requirements set out in paragraphs 67 to 69 of the present judgment.

92 In so far as the Parliament contests that Article 349 TFEU could be the basis for inserting, as provided for by Article 3(3) of Regulation No 1385/2013, the entries concerning Mayotte set out in the annex to that regulation into the table in Annex II to Regulation No 1380/2013, it must be stated that that measure constitutes, together with the measures laid down in Article 3(1) and (2) of Regulation No 1385/2013, an inseparable whole and that, as the Advocate General has observed in point 81 of his Opinion, it is ancillary to those measures.

93 Accordingly, the Parliament cannot criticise the Council for acting on the basis of Article 349 TFEU in order to adopt the body of measures laid down in Article 3 of Regulation No 1385/2013.

94 Fourthly, the postponement, by Article 4 of Regulation No 1385/2013, of the entry into force of Article 4 of Regulation No 1069/2009 in Mayotte until 1 January 2021 was justified by the Council, as stated in recital 8 of Regulation No 1385/2013, by the fact that Mayotte has no industrial capacity for the processing of animal by-products.

95 That measure was therefore adopted taking account of the structural social and economic situation of Mayotte. It follows that the use of Article 349 TFEU as the legal basis for that measure complied with EU law.

96 As regards, in the second place, the question whether the provisions of Directive 2013/64 meet the requirements set out in paragraphs 67 to 69 of the present judgment, in Articles 1 to 6 of that directive, as the Parliament correctly points out, the Council amended Directives 91/271, 1999/74, 2000/60, 2006/7, 2006/25 and 2011/24 in order to postpone the full application, so far as concerns Mayotte, of certain provisions which they contain.

97 Those amendments were justified generally, as stated in recital 2 of Directive 2013/64, by the need to ‘take account of the particular situation in Mayotte as regards the state of the environment, which needs to be considerably improved for it to comply with environmental objectives laid down by Union law, and for which additional time is needed’.

98 Furthermore, justifications specific to each of those amendments were set out by the Council in recitals 3 to 9 of that directive.

99 Thus, in recital 3 of Directive 2013/64, which concerns the amendments to Directive 91/271, it was indicated that the specific structural and economic situation of Mayotte, so far as concerns the treatment of urban waste water, did not meet the requirements of Directive 91/271.

100 In recital 4 of Directive 2013/64, relating to the amendments to Directive 1999/74, it was noted in respect of the protection of laying hens that considerable investment and preparatory work were necessary to make the situation in Mayotte consistent with the requirements of Directive 1999/74.

101 In recital 5 of Directive 2013/64, regarding the amendments to Directive 2000/60, the Council stated that, due to the specific structural and economic situation of Mayotte, the French Republic had to be granted a sufficient period of time for the adoption and implementation of measures ensuring that river basin management plans comply with the requirements of Directive 2000/60.

102 In recital 6 of Directive 2013/64, relating to the amendments to Directive 2006/7, it was pointed out that the state of surface waters in Mayotte needed to be considerably improved for them to comply with the requirements of Directive 2006/7, bathing water quality being affected due to the special social and economic situation of that region.

103 In recital 7 of Directive 2013/64, concerning the amendments to Directive 2006/25, the Council noted that, due to Mayotte's special social and economic situation, there were no technical facilities available there for the implementation of measures necessary to comply with Directive 2006/25 in the field of artificial optical radiation.

104 Finally, in recital 9 of Directive 2013/64, concerning the amendment to Directive 2011/24, the Council explained that the transposition of Directive 2011/24 required a number of adaptations to ensure continuity of care and information to patients.

105 It is clear that the measures that Directive 2013/64 sets out, by which the Council amended Directives 91/271, 1999/74, 2000/60, 2006/7, 2006/25 and 2011/24, were adopted taking account of the structural social and economic situation of Mayotte. Therefore, the Council was entitled to act on the basis of Article 349 TFEU in order to adopt those measures.

106 In the light of the foregoing considerations, it is apparent from the objectives and content of the contested acts that the measures set out in them were adopted taking account of the structural social and economic situation of Mayotte, within the meaning of the first paragraph of Article 349 TFEU.

107 Accordingly, the Parliament is not justified in asserting that neither Articles 1, 2 and 4 of Regulation No 1385/2013 nor Directive 2013/64 could lawfully have Article 349 TFEU as their legal basis.

108 Consequently, the actions of the Parliament in Cases C-132/14 and C-136/14 must also be dismissed.

Costs

109 Under Article 138(1) of the Rules of Procedure of the Court of Justice, the unsuccessful party is to be ordered to pay the costs if they have been applied for in the successful party's pleadings.

110 Since the Council has applied for costs and the Parliament and the Commission have been unsuccessful in Cases C-132/14 to C-136/14, they must be ordered to pay the Council's costs relating to those cases.

111 In accordance with Article 140(1) of the Rules of Procedure, the Kingdom of Spain, the French Republic and the Portuguese Republic are to bear their own costs.

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

1. **Dismisses the actions in Cases C-132/14 to C-136/14;**

2. **Orders the European Parliament to pay the costs of the Council of the European Union relating to Cases C-132/14 and C-136/14;**

3. **Orders the European Commission to pay the costs of the Council of the European Union relating to Cases C-133/14 to C-135/14;**

4. **Orders the Kingdom of Spain, the French Republic and the Portuguese Republic to bear their own costs.**

[Signatures]