Reports of Cases

JUDGMENT OF THE COURT (Fourth Chamber)

20 December 2017*

(Appeal — Regulation (EC) No 834/2007 — Production and labelling of organic products — Regulation (EC) No 889/2008 — Implementing Regulation (EU) No 1358/2014 — Interest in bringing proceedings — Notion of 'personal benefit')

In Case C-268/16 P,

APPEAL under Article 56 of the Statute of the Court of Justice of the European Union, brought on 13 May 2016,

Binca Seafoods GmbH, established in Munich (Germany), represented by H. Schmidt, Rechtsanwalt,

appellant,

the other party to the proceedings being:

European Commission, represented by A. Lewis, G. von Rintelen and K. Walkerová, acting as Agents,

defendant at first instance,

THE COURT (Fourth Chamber),

composed of T. von Danwitz, President of the Chamber, C. Vajda, E. Juhász (Rapporteur), K. Jürimäe and C. Lycourgos, Judges,

Advocate General: M. Bobek,

Registrar: K. Malacek, Administrator,

having regard to the written procedure and further to the hearing on 29 March 2017,

after hearing the Opinion of the Advocate General at the sitting on 8 June 2017,

gives the following

Judgment

1 By its appeal, Binca Seafoods GmbH ('Binca') seeks to have set aside the order of the General Court of the European Union of 11 March 2016, *Binca Seafoods* v *Commission* (T-94/15, not published, EU:T:2016:164; 'the order under appeal') by which the General Court dismissed its action for annulment of Commission Implementing Regulation (EU) No 1358/2014 of 18 December 2014

* Language of the case: German.

amending Regulation (EC) No 889/2008 laying down detailed rules for the implementation of Council Regulation (EC) No 834/2007 as regards the origin of organic aquaculture animals, aquaculture husbandry practices, feed for organic aquaculture animals and products and substances allowed for use in organic aquaculture (OJ 2014 L 365, p. 97) ('the regulation at issue').

Legal context

The basic regulation

2 Article 1 of Council Regulation (EC) No 834/2007 of 28 June 2007 on organic production and labelling of organic products and repealing Regulation (EEC) No 2092/91 (OJ 2007 L 189, p. 1) ('the basic regulation') provides as follows:

'1. This Regulation provides the basis for the sustainable development of organic production while ensuring the effective functioning of the internal market, guaranteeing fair competition, ensuring consumer confidence and protecting consumer interests.

It establishes common objectives and principles to underpin the rules set out under this Regulation concerning:

(a) all stages of production, preparation and distribution of organic products and their control;

…

2. This Regulation shall apply to the following products originating from agriculture, including aquaculture, where such products are placed on the market or are intended to be placed on the market:

(a) live or unprocessed agricultural products;

(b) processed agricultural products for use as food;

(c) feed;

(d) vegetative propagating material and seeds for cultivation.

The products of hunting and fishing of wild animals shall not be considered as organic production.

…'

3 Article 2 of the basic regulation states:

'For the purposes of this Regulation, the following definitions shall apply:

(a) "organic production" means the use of the production method compliant with the rules established in this Regulation, at all stages of production, preparation and distribution;

…

(d) "operator" means the natural or legal persons responsible for ensuring that the requirements of this Regulation are met within the organic business under their control;

…’

4 Article 15 of the basic regulation, which lays down the rules applicable to aquaculture animal production, is worded as follows:

‘1. In addition to the general farm production rules laid down in Article 11, the following rules shall apply to aquaculture animal production:

(a) with regard to the origin of the aquaculture animals:
   (i) organic aquaculture shall be based on the rearing of young stock originating from organic broodstock and organic holdings;
   (ii) when young stock from organic broodstock or holdings are not available, non-organically produced animals may be brought onto a holding under specific conditions;

   …

(c) with regard to breeding:

   …
   (iii) species-specific conditions for broodstock management, breeding and juvenile production shall be established;

…’

5 Article 38 of the basic regulation empowers the European Commission to adopt the detailed rules for the application of that regulation.

6 Pursuant to Article 42 thereof, the basic regulation has been applicable since 1 January 2009.

The implementing regulation

7 In its original version, Article 1(2)(a) of Commission Regulation (EC) No 889/2008 of 5 September 2008 laying down detailed rules for the implementation of Regulation No 834/2007 with regard to organic production, labelling and control (OJ 2008 L 250, p. 1) (‘the implementing regulation’), applicable as of 1 January 2009 pursuant to Article 97 thereof, excluded products originating from aquaculture from its scope of application.

The first regulation amending the implementing regulation

8 By Commission Regulation (EC) No 710/2009 of 5 August 2009 (OJ 2009 L 204, p. 15) (‘the first regulation amending the implementing regulation’), the application of the implementing regulation was extended to certain aquaculture animals and production rules specific to products derived from aquaculture were incorporated in the implementing regulation.

9 The first regulation amending the implementing regulation introduced, in Title II of the implementing regulation, a Chapter 2a, entitled ‘Aquaculture animal production’. Within Section 2 of that chapter, concerning the origin of aquaculture animals, Article 25e set out the conditions under which non-organic aquaculture animals may be brought into a holding.

10 In its original version, resulting from the first regulation amending the implementing regulation, Article 25e provided:

'1. For breeding purposes or for improving genetic stock and when organic aquaculture animals are not available, wild caught or non-organic aquaculture animals may be brought into a holding. Such animals shall be kept under organic management for at least three months before they may be used for breeding.

2. For on-growing purposes and when organic aquaculture juvenile animals are not available non-organic aquaculture juveniles may be brought into a holding. At least the latter two thirds of the duration of the production cycle shall be managed under organic management.

3. The maximum percentage of non-organic aquaculture juveniles introduced to the farm shall be: 80% by 31 December 2011, 50% by 31 December 2013 and 0% by 31 December 2015.

4. For on-growing purposes the collection of wild aquaculture juveniles is specifically restricted to the following cases:

(a) natural influx of fish or crustacean larvae and juveniles when filling ponds, containment systems and enclosures;

(b) European glass eel, provided that an approved eel management plan is in place for the location and artificial reproduction of eel remains unsolved.'

11 Article 25i, headed 'Prohibition of hormones', inserted in Section 4, concerning breeding, of Chapter 2a of Title II of the implementing regulation, by the first regulation amending the implementing regulation, provides:

'The use of hormones and hormone derivates is prohibited.'

12 Article 25k, entitled 'Specific rules on feeds for carnivorous aquaculture animals', incorporated into the implementing regulation by the first regulation amending the implementing regulation, in the version resulting from Commission Implementing Regulation (EU) No 505/2012 of 14 June 2012 amending and correcting Regulation No 889/2008 (OJ 2012 L 154, p. 12), is worded as follows:

'1. Feed for carnivorous aquaculture animals shall be sourced with the following priorities:

(a) organic feed products of aquaculture origin;

(b) fish meal and fish oil from organic aquaculture trimmings;

(c) fish meal and fish oil and ingredients of fish origin derived from trimmings of fish already caught for human consumption in sustainable fisheries;

(d) organic feed materials of plant or animal origin.

…

3. The feed ration may comprise a maximum of 60% organic plant products.

4. Astaxanthin derived primarily from organic sources, such as organic crustacean shells, may be used in the feed ration for salmon and trout within the limit of their physiological needs. If organic sources are not available natural sources of astaxanthin (such as Phaffia yeast) may be used.'

13 Pursuant to Article 2 thereof, the first regulation amending the implementing regulation applied as from 1 July 2010.

14 Nevertheless, in Article 95 of the implementing regulation, the first regulation amending the implementing regulation added the following paragraph:

'11. The competent authority may authorise for a period expiring on 1 July 2013, those aquaculture animal and seaweed production units which are established and produce under nationally accepted organic rules before entry into force of this Regulation, to keep their organic status while adapting to the rules of this Regulation, provided there is no undue pollution of the waters with substances not allowed in organic production. Operators benefiting from this measure shall notify the facilities, fishponds, cages or seaweed lots which are concerned to the competent authority.'

15 The last paragraph of Article 2 of the first regulation amending the implementing regulation provided:

'This Regulation may be revised on the basis of relevant proposals from Member States, which are accompanied by a duly justified motivation, with a view of the modification of this Regulation from 1 July 2013.'

The second regulation amending the implementing regulation

16 By Commission Implementing Regulation (EU) No 1030/2013 of 24 October 2013 (OJ 2013 L 283, p. 15) ('the second regulation amending the implementing regulation'), the end date of the transitional period during which the first regulation amending the implementing regulation could not be amended ('the transitional period'), which had been fixed at 1 July 2013 by Article 95(11) of the implementing regulation, was replaced by the date of 1 January 2015.

The third regulation amending the implementing regulation

17 Commission Implementing Regulation (EU) No 1364/2013 of 17 December 2013 amending [the implementing regulation] as regards the use of non-organic aquaculture juveniles and non-organic seed of bivalve shellfish in organic aquaculture (OJ 2013 L 343, p. 29) ('the third regulation amending the implementing regulation') amended Article 25e(3) of the implementing regulation.

18 The period during which the maximum percentage of non-organic aquaculture juveniles introduced to a farm could amount to 50% was extended up to 31 December 2014.

19 The date on which the maximum percentage must be 0%, set at 31 December 2015, was not amended.

The regulation at issue

20 Article 1(1) of the regulation at issue replaced Article 25e(4) of the implementing regulation as follows:

'4. For on-growing purposes the collection of wild aquaculture juveniles is specifically restricted to the following cases:

(a) natural influx of fish or crustacean larvae and juveniles when filling ponds, containment systems and enclosures;

(b) European glass eel, provided that an approved eel management plan is in place for the location and artificial reproduction of eel remains unsolved;

(c) the collection of wild fry of species other than European eel for on-growing in traditional extensive aquaculture farming inside wetlands, such as brackish water ponds, tidal areas and coastal lagoons, closed by levees and banks, provided that:
   (i) the restocking is in line with management measures approved by the relevant authorities in charge of the management of the fish stocks in question to ensure the sustainable exploitation of the species concerned, and
   (ii) the fish are fed exclusively with feed naturally available in the environment.'

21 Recitals 3 and 4 of that regulation provided the following explanation for the additions inserted in Article 25e(4) of the implementing regulation:

'(3) Under Article 15(1)(a)(ii) of [the basic regulation], non-organically produced animals may be brought onto a holding under specific conditions, when young stock from organic broodstock or holdings are not available. [The implementing regulation] lays down specific restrictions as regards wild caught aquaculture animals, including the collection of wild aquaculture juveniles. Some traditional practices of extensive fish farming in wetlands, such as brackish water ponds, tidal areas and coastal lagoons, closed by levees and banks, have existed for centuries and are valuable in terms of cultural heritage, biodiversity conservation and economic perspective for the local communities. Under certain conditions, those practices do not affect the stock status of the species concerned.

(4) Therefore, the collection of wild fry for on-growing purposes in those traditional aquaculture practices is considered to be in line with the objectives, criteria and principles of organic aquaculture production, provided that management measures approved by the relevant authority in charge of the management of the fish stocks in question are in place to ensure the sustainable exploitation of the species concerned, that restocking is in line with those measures, and that the fish are fed exclusively with feed naturally available in the environment.'

22 Article 1(3) of the regulation at issue added the following subparagraph to Article 25k(1) of the implementing regulation:

'(e) feed products derived from whole fish caught in fisheries certified as sustainable under a scheme recognised by the competent authority in line with the principles laid down in 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)].'

23 Article 1(5) of the regulation at issue also inserted, in Article 25k of the implementing regulation, a new paragraph worded as follows:

'5. Histidine produced through fermentation may be used in the feed ration for salmonid fish when the feed sources listed in paragraph 1 do not provide a sufficient amount of histidine to meet the dietary needs of the fish and prevent the formation of cataracts.'

Background of the dispute

24 Binca, a company registered under German law and enjoying organic certification, imports into Germany a fish called 'pangasius', produced in Vietnam at a fish farm called Binca Organic Farm within the framework of organic aquaculture, which it then sells to commercial partners established in Germany, Austria and Scandinavia.

25 Binca buys frozen pangasius, through an undertaking established in Vietnam ('the intermediary'), listed and enjoying organic certification, which processes and freezes the fish derived from aquaculture and invoices the products delivered to Binca, acting as exporter.

26 Binca itself purchases the fish feed ingredients, which it delivers to the intermediary, and deducts the amount corresponding to the price paid to the latter.

27 By a letter sent to the Commission in September 2014, Binca submitted proposals for amending the implementing regulation, in particular Article 25e(3), as amended by the third regulation amending the implementing regulation, for the purpose of extending, up to 2021, the possibility of introducing non-organic aquaculture juveniles into holdings.

28 By letter of 15 October 2014, the Commission informed Binca that the procedure for amending the implementing regulation was underway and that the positions of the Member States and all interested parties would be taken into account.

29 The regulation at issue was adopted on 18 December 2014.

30 By letter of 18 February 2015, Binca requested the Commission, pursuant to Article 265 TFEU, to extend up to 1 January 2018 the transitional period referred to in Article 95(11) of the implementing regulation in relation to pangasius produced in Vietnam.

The proceedings before the General Court and the order under appeal

31 By application lodged at the Registry of the General Court on 19 February 2015, Binca brought an action seeking annulment of the regulation at issue. It maintained that it was the subject of discrimination, since, in the regulation at issue, the Commission had laid down transitional measures and derogating rules specific to organic aquacultures other than its own. That regulation, it argued, thus operated to the advantage of its competitors but did not lay down any transitional and derogating measure from which it could itself benefit. According to Binca, such transitional and derogating measures concerned in particular the origin of juvenile animals.

32 Binca indicated that other economic operators could continue to use the 'organic' label under certain conditions, which were, however, not made available to it. In that regard, unequal treatment as between fish production in the Mekong Delta (Vietnam) and that in brackish water zones in Europe was specifically referred to in its application.

33 By a separate document lodged at the Registry of the General Court on 21 May 2015, the Commission raised an objection of inadmissibility under Article 114 of the Rules of Procedure of the General Court of 2 May 1991.

34 By the order under appeal, the General Court dismissed Binca's action as inadmissible on the ground that it did not have an interest in bringing proceedings for annulment of the regulation at issue.

Forms of order sought by the parties before the Court of Justice

35 By its appeal, Binca claims that the Court should:

– set aside the order under appeal; and

– annul the regulation at issue.

36 The Commission claims that the Court should:

– dismiss the appeal; and

– order Binca to pay the costs.

The appeal

37 In support of its appeal, Binca relies, in essence, on five grounds, the first alleging failure to take into account the arguments relating to protection of competition and failure to find that there had been an infringement of the principle of equal treatment, the second alleging infringement of the right to an effective remedy, the third alleging infringement of the right to a fair hearing and of the duty to state reasons, the fourth alleging infringement of the right to a public hearing and the fifth alleging infringement of the freedom to conduct a business.

Arguments of the parties

38 By its first ground of appeal, Binca alleges that the General Court carried out an assessment which resulted in an incorrect reclassification of its action. Although it complained of discrimination vis-à-vis competitors which are able to maintain the 'bio' label by reason of an arbitrary and selective extension of the transitional period, the General Court treated that action as seeking solely an extension of the transitional period.

39 The Commission claims that the reasoning of the order under appeal is based mainly, and correctly, on Binca's interest in seeking the annulment of the regulation at issue in order to be able to continue to market pangasius with the 'bio' label, since its application had expressly set out, as the objective of the action, the extension of the transitional period laid down in Article 95(11) of the implementing regulation. That objective was also pursued by the extrajudicial steps taken by Binca and referred to in the order under appeal.

40 Furthermore, according to the Commission, Binca does not operate under the same competitive conditions as the persons to whom the regulation at issue was addressed, namely aquaculture farm operators, since Binca's activity consists in the importation of 'bio' label pangasius.

41 The Commission adds that Binca has not submitted any conclusive evidence capable of demonstrating that there is a competitive relationship between it and the other producers of fish from organic aquaculture. Consequently, in the Commission's view, the General Court did not err in law in failing to consider in greater detail Binca's arguments relating to the protection of competition.

Findings of the Court

42 As a preliminary point, it must be noted that the General Court, at the stage of examining the admissibility of the action before it, approached that action as seeking solely the extension, in Binca's favour, of the transitional period laid down in Article 95(11) of the implementing regulation. Given that the regulation at issue did not amend that transitional period, the General Court took the view, in the order under appeal, that annulment of the implementing regulation would not alter the applicable legal framework. Without examining the other conditions governing admissibility of the action, the General Court accordingly held, in paragraph 73 of the order under appeal, that Binca did not have an interest in bringing proceedings for annulment of the regulation at issue and that, consequently, its action was inadmissible.

43 By its appeal, Binca claims that, in the context of the examination of the admissibility of its action before the General Court, the latter ought to have found that that action was directed against unequal treatment introduced by the regulation at issue, the application of which resulted in a distortion of competition.

44 It must be borne in mind that, according to the settled case-law of the Court of Justice, an action for annulment brought by a natural or legal person is admissible only in so far as that person has an interest in having the contested act annulled. Such an interest requires that the annulment of that act must be capable, in itself, of having legal consequences and that the action may therefore, through its outcome, procure an advantage to the party which brought it (judgments of 4 June 2015, *Andechser Molkerei Scheitz* v *Commission*, C-682/13 P, not published, EU:C:2015:356, paragraph 25; of 17 September 2015, *Mory and Others* v *Commission*, C-33/14 P, EU:C:2015:609, paragraph 55, as well as order of 6 April 2017, *Proforec* v *Commission*, C-176/16 P, not published, EU:C:2017:290, paragraph 32).

45 According to that case-law, it is for the applicant to prove its interest in bringing proceedings, which is an essential and fundamental prerequisite for any legal proceedings (see, to that effect, judgment of 17 September 2015, *Mory and Others* v *Commission*, C-33/14 P, EU:C:2015:609, paragraph 58). In particular, in order for an action seeking annulment of an act, submitted by a natural or legal person, to be admissible, the applicant must justify in a relevant manner its interest in the annulment of that act (judgment of 4 June 2015, *Andechser Molkerei Scheitz* v *Commission*, C-682/13 P, not published, EU:C:2015:356, paragraphs 26 to 28, and order of 6 April 2017, *Proforec* v *Commission*, C-176/16 P, not published, EU:C:2017:290, paragraphs 33 and 34).

46 In the present case, it follows from paragraphs 60 and 62 of the order under appeal that Binca argued, before the General Court, that the regulation at issue enabled certain of its competitors, but not Binca itself, to continue marketing their products with the 'bio' label and that, inasmuch as it could no longer sell pangasius with that label, consumers would transfer their choice to fish from other organic aquaculture species. Binca therefore maintained that, if the regulation at issue were annulled, it would be able to keep its customers since its competitors would no longer be authorised to use the 'bio' label either.

47 It is also apparent from paragraph 70 of the order under appeal that Binca claimed, before the General Court, that, by its action for annulment, it thought it possible to obtain fair and equal conditions as between itself and other producers of fish from organic aquaculture, in that they, in the same way as Binca itself, would no longer be able to use the 'bio' label on the market.

48 It follows that Binca maintained, before the General Court, that it had an interest in seeking annulment of the regulation at issue inasmuch as such annulment would be capable of remedying the unequal treatment to which that regulation had given rise between itself and other producers of fish from organic aquaculture, and not merely in that the regulation at issue did not extend the transitional period laid down in Article 95(11) of the implementing regulation.

49 Furthermore, as is apparent from paragraph 69 of the order under appeal, Binca conceded before the General Court that, by its action, it would not be able to benefit from an extension of the transitional period, laid down in Article 95(11) of the implementing regulation, as amended by the second regulation amending the implementing regulation, while maintaining that it would be possible to bring an end to the discrimination which it was incurring by preventing the other producers of fish from organic aquaculture from using the 'bio' label.

50 In those circumstances, by having wrongly held that the action brought before it by Binca sought the annulment of the regulation at issue solely on the ground that that regulation did not extend that transitional period, which resulted in the incorrect reclassification of the action, the General Court erred in law.

51 Consequently, the order under appeal must be set aside without there being any need to consider the other grounds of appeal raised by Binca.

The action before the General Court

52 In accordance with the second sentence of the first paragraph of Article 61 of the Statute of the Court of Justice, the Court of Justice may, if the decision of the General Court is set aside, give final judgment in the matter, where the state of the proceedings so permits.

53 In the present case, the Court has the information necessary to enable it to give final judgment on the question as to whether Binca had an interest in bringing proceedings.

54 In this connection, it must be noted, first of all, that Binca, in its application submitted at first instance, maintained that the regulation at issue should be annulled because of arbitrary unequal treatment between the different organic aquacultures and that that annulment would make it possible to put an end to the discrimination and oblige the Commission to take a non-discriminatory decision in relation to the transitional measures. In that application, Binca stated, in relation to the origin of juvenile animals, that the amendment of Article 25e(4) of the implementing regulation by Article 1(1) of the regulation at issue led to unequal treatment between aquaculture carried out in the Mekong Delta and that carried out in brackish water zones in Europe.

55 In its observations on the objection of inadmissibility raised by the Commission before the General Court, Binca also stated that the producers of organic salmon and trout had been favoured by two derogations, the first stemming from Article 25k(1)(e) of the implementing regulation, introduced by Article 1(3) of the regulation at issue, and the second stemming from Article 25k(5) of the implementing regulation, introduced by Article 1(5) of the regulation at issue, which respectively allow the use of whole fish as a source of feed for carnivorous animals and the addition of histidine to ensure that the dietary needs of salmonid fish are met.

56 As the Advocate General noted in points 69 to 73 of his Opinion, the specific arguments relating to Article 1(3) and (5) of the regulation at issue, inserting Article 25k(1)(e) and Article 25k(5) respectively in the implementing regulation, having not been put forward by Binca in its application at first instance, cannot be taken into account for the purpose of determining whether Binca had an interest in seeking annulment of the regulation at issue. It is indeed clear from the provisions of Article 21 of the Statute of the Court of Justice of the European Union and Article 44(1) of the Rules of Procedure of the General Court of 2 May 1991 (now Article 76 of the Rules of Procedure of the General Court of 23 April 2015) that the application submitted at first instance must contain, inter alia, the subject matter of the dispute and a brief statement of the pleas in law relied on.

57 As regards, by contrast, the question as to whether Binca had an interest in bringing proceedings for the annulment of Article 1(1) of the regulation at issue, amending Article 25e(4) of the implementing regulation, the Commission notes, first, that that company, being merely a fish importer, is not in competition with the producers allegedly favoured by the regulation at issue and, second, that pangasius is not in competition with the other types of fish which, according to Binca, are given preferential treatment by the regulation at issue.

58 Nevertheless, in the first place, as follows from paragraphs 25 and 26 of the present judgment, Binca's role in the supply chain of organic pangasius from Vietnam is wider and more complex than that of a traditional importer. In any event, given that the requirements relating to organic labelling to which importers of organic aquaculture products are subject include the production requirements imposed by the regulation at issue, a fact which the Commission acknowledged during the hearing before the Court, it cannot be held, in the present case, that fish producers alone are liable to have an interest in the annulment of the regulation at issue.

59 In the second place, it is not for the Court, at the stage of the examination of admissibility, to make a definitive finding on the competitive relationship between Binca and the fish producers allegedly favoured by the regulation at issue or between organic pangasius and the other fish from organic aquaculture for the purpose of determining whether Binca has an interest in bringing proceedings (see, by analogy, judgment of 28 January 1986, *Cofaz and Others* v *Commission*, 169/84, EU:C:1986:42, paragraph 28). In the present case, it is sufficient to establish that Binca has justified in a relevant way the interest which it has in the annulment of the regulation at issue.

60 In that regard, Binca not only claimed before the General Court that it would benefit from the annulment of Article 1(1) of the regulation at issue, amending Article 25e(4) of the implementing regulation, but also explained how that amendment made by the regulation at issue creates advantages for certain of the other organic aquaculture fish producers and results in negative commercial consequences for Binca itself.

61 In the context of that argument, Binca also stated that, because of the specific natural conditions governing aquaculture farming in the Mekong Delta, the holding which supplies Binca could not, in contrast to holdings located in European waters, benefit from Article 25e(4)(c) of the implementing regulation, in its version resulting from Article 1(1) of the regulation at issue.

62 It must be noted in this regard, as is clear from point 87 of the Opinion of the Advocate General, that, according to recitals 3 and 4 of the regulation at issue, the exceptions set out in Article 25e(4) of the implementing regulation are intended to facilitate the ongoing production of organic fish that would otherwise be interrupted. The annulment requested by Binca would thus eliminate those exceptions and make it harder, or even impossible, to produce certain types of fish organically, within the meaning of the basic regulation, the implementing regulation and the regulations amending the implementing regulation.

63 The view must therefore be taken that Binca has justified to the requisite legal standard its interest in bringing proceedings by putting forward in a relevant manner, before the General Court, the negative effects, for it, of the provisions of the regulation at issue covered by its action for annulment, as well as the benefit which it is likely to derive from the annulment of those provisions. At the stage of the examination of the admissibility of the action brought before the General Court, that benefit must be acknowledged regardless of whether or not the General Court, at the conclusion of the proceedings before it, annuls the provision under challenge.

64 It follows that Binca had an interest in bringing proceedings.

65 It should be noted, however, that the Court does not have sufficient information to rule on the other arguments developed in the objection of inadmissibility raised by the Commission against Binca's action for annulment as well as on the substance of the case.

66 The case should therefore be referred back to the General Court and the costs reserved.

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

1. **Sets aside the order of the General Court of the European Union of 11 March 2016, *Binca Seafoods* v *Commission* (T-94/15, not published, EU:T:2016:164);**

2. **Refers the case back to the General Court of the European Union;**

3. **Reserves the costs.**

[Signatures]