JUDGMENT OF THE COURT (Grand Chamber)

13 January 2015 (*)

(Appeals — Regulation (EC) No 149/2008 — Regulation setting maximum residue levels for pesticides — Request for internal review of that regulation, submitted pursuant to Regulation (EC) No 1367/2006 — Commission decision declaring the request inadmissible — Measure of individual scope — Aarhus Convention — Validity of Regulation (EC) No 1367/2006 in the light of that convention)

In Joined Cases C-404/12 P and C-405/12 P,

APPEALS under Article 56 of the Statute of the Court of Justice of the European Union, lodged on 24 and 27 August 2012, respectively,

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

European Commission, represented by J.-P. Keppenne, P. Oliver and S. Boelaert, acting as Agents, with an address for service in Luxembourg,

appellants,

supported by:

Czech Republic, represented by D. Hadroušek, acting as Agent,

intervener in the appeal,

the other parties to the proceedings being:

Stichting Natuur en Milieu, established in Utrecht (Netherlands),

Pesticide Action Network Europe, established in London (United Kingdom),

represented by A. van den Biesen, advocaat,

applicants at first instance,

THE COURT (Grand Chamber),

composed of V. Skouris, President, K. Lenaerts, Vice-President, A. Tizzano, L. Bay Larsen, T. von Danwitz, A. Ó Caoimh and J.-C. Bonichot (Rapporteur), Presidents of Chambers, E. Levits, C. Toader, M. Berger, A. Prechal, E. Jarašiūnas and C.G. Fernlund, Judges,

Advocate General: N. Jääskinen,

Registrar: M. Ferreira, Principal Administrator,

having regard to the written procedure and further to the hearing on 10 December 2013,

after hearing the Opinion of the Advocate General at the sitting on 8 May 2014,

gives the following

Judgment

1 By their appeals, the Council of the European Union and the European Commission ask the Court to set aside the judgment of the General Court of the European Union in *Stichting Natuur en Milieu and Pesticide Action Network Europe* v *Commission* (T-338/08, EU:T:2012:300, 'the judgment under appeal'), by which it annulled two Commission decisions of 1 July 2008 ('the decisions at issue'), rejecting as inadmissible the applications lodged by Stichting Natuur en Milieu and Pesticide Action Network Europe seeking to have the Commission review its Regulation (EC) No 149/2008 of 29 January 2008 amending Regulation (EC) No 396/2005 of the European Parliament and of the Council by establishing Annexes II, III and IV setting maximum residue levels for products covered by Annex I thereto (OJ 2008 L 58, p. 1).

Legal context

The Aarhus Convention

2 The Convention on access to information, public participation in decision-making and access to justice in environmental matters, signed at Aarhus on 25 June 1998 and approved on behalf of the European Community by Council Decision 2005/370/EC of 17 February 2005 (OJ 2005 L 124, p. 1; 'the Aarhus Convention'), states in Article 1 thereof, which is entitled 'Subject matter':

'In order to contribute to the protection of the right of every person of present and future generations to live in an environment adequate to his or her health and well-being, each Party shall guarantee the rights of access to information, public participation in decision-making, and access to justice in environmental matters in accordance with the provisions of this Convention.'

3 The second subparagraph of Article 2(2) of that convention provides:

'This definition [of "public authority"] does not include bodies or institutions acting in a judicial or legislative capacity.'

4 Article 9 of the Convention provides:

'(1) Each Party shall, within the framework of its national legislation, ensure that any person who considers that his or her request for information under Article 4 has been ignored, wrongfully refused, whether in part or in full, inadequately answered, or otherwise not dealt with in accordance with the provisions of that article, has access to a review procedure before a court of law or another independent and impartial body established by law.

In the circumstances where a Party provides for such a review by a court of law, it shall ensure that such a person also has access to an expeditious procedure established by law that is free of charge or inexpensive for reconsideration by a public authority or review by an independent and impartial body other than a court of law.

Final decisions under this paragraph 1 shall be binding on the public authority holding the information. Reasons shall be stated in writing, at least where access to information is refused under this paragraph.

(2) Each Party shall, within the framework of its national legislation, ensure that members of the

public concerned

(a) having a sufficient interest

or, alternatively,

(b) alleging the impairment of a right, where administrative procedural law of a Member State requires this as a precondition,

have access to a review procedure before a court of law and/or another independent and impartial body established by law, to challenge the substantive and procedural legality of any decision, act or omission subject to the provisions of Article 6 and, where so provided for under national law and without prejudice to paragraph 3 below, of other relevant provisions of this Convention.

What constitutes a sufficient interest and impairment of a right shall be determined in accordance with the requirements of national law and consistently with the objective of giving the public concerned wide access to justice within the scope of this Convention. To this end, the interest of any non-governmental organisation meeting the requirements referred to in Article 2(5), shall be deemed sufficient for the purpose of subparagraph (a) above. Such organisations shall also be deemed to have rights capable of being impaired for the purpose of subparagraph (b) above.

The provisions of this paragraph 2 shall not exclude the possibility of a preliminary review procedure before an administrative authority and shall not affect the requirement of exhaustion of administrative review procedures prior to recourse to judicial review procedures, where such a requirement exists under national law.

(3) In addition and without prejudice to the review procedures referred to in paragraphs 1 and 2 above, each Party shall ensure that, where they meet the criteria, if any, laid down in its national law, members of the public have access to administrative or judicial procedures to challenge acts and omissions by private persons and public authorities which contravene provisions of its national law relating to the environment.

(4) In addition and without prejudice to paragraph 1 above, the procedures referred to in paragraphs 1, 2 and 3 above shall provide adequate and effective remedies, including injunctive relief as appropriate, and be fair, equitable, timely and not prohibitively expensive. Decisions under this Article shall be given or recorded in writing. Decisions of courts, and whenever possible of other bodies, shall be publicly accessible.

(5) In order to further the effectiveness of the provisions of this article, each Party shall ensure that information is provided to the public on access to administrative and judicial review procedures and shall consider the establishment of appropriate assistance mechanisms to remove or reduce financial and other barriers to access to justice.'

Regulation (EC) No 1367/2006

5 Regulation (EC) No 1367/2006 of the European Parliament and of the Council of 6 September 2006 on the application of the provisions of the Aarhus Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters to Community institutions and bodies (OJ 2006 L 264, p. 13) states, in recital 18 thereof:

'Article 9(3) of the Aarhus Convention provides for access to judicial or other review procedures for challenging acts and omissions by private persons and public authorities which contravene provisions of law relating to the environment. Provisions on access to justice should be consistent

with the [EC] Treaty. It is appropriate in this context that this Regulation address only acts and omissions by public authorities.'

6 Article 1(1) of Regulation No 1367/2006 provides:

'The objective of this Regulation is to contribute to the implementation of the obligations arising under the [Aarhus Convention] by laying down rules to apply the provisions of the Convention to Community institutions and bodies, in particular by

…

(d) granting access to justice in environmental matters at Community level under the conditions laid down by this Regulation.'

7 Article 2(1)(g) of that regulation defines 'administrative act' as meaning:

'any measure of individual scope under environmental law, taken by a Community institution or body, and having legally binding and external effects'.

8 Article 10 of that regulation, entitled 'Request for internal review of administrative acts', provides in paragraph 1 thereof:

'Any non-governmental organisation which meets the criteria set out in Article 11 is entitled to make a request for internal review to the Community institution or body that has adopted an administrative act under environmental law or, in case of an alleged administrative omission, should have adopted such an act.'

Directive 2003/4/EC

9 Directive 2003/4/EC of the European Parliament and of the Council of 28 January 2003 on public access to environmental information and repealing Council Directive 90/313/EEC (OJ 2003 L 41, p. 26), defines, in Article 2(2)(a), the concept of 'public authority' as being, in particular, 'government or other public administration, including public advisory bodies, at national, regional or local level', while specifying that 'Member States may provide that this definition shall not include bodies or institutions when acting in a judicial or legislative capacity. …'

Background to the dispute

10 Stichting Natuur en Milieu, a foundation under Netherlands law established in Utrecht (Netherlands) whose object is protection of the environment, and Pesticide Action Network Europe, a foundation under Netherlands law established in London (United Kingdom) which campaigns against the use of chemical pesticides, requested, by letters of 7 and 10 April 2008, the Commission to carry out an internal review of Regulation No 149/2008 pursuant to Article 10(1) of Regulation No 1367/2006.

11 By the decisions at issue, the Commission rejected those requests as inadmissible on the grounds that Regulation No 149/2008 was not a measure of individual scope and that it could therefore not be considered an 'administrative act', within the meaning of Article 2(1)(g) of Regulation No 1367/2006, capable of forming the subject of the internal review procedure provided for under Article 10 thereof.

The proceedings before the General Court and the judgment under appeal

12 By application lodged at the Registry of the General Court on 11 August 2008, the foundations referred to sought the annulment of the decisions at issue. In those first instance proceedings, the Republic of Poland and the Council intervened in support of the form of order sought by the Commission.

13 By the judgment under appeal, the General Court granted the application for annulment.

14 After having rejected as unfounded the applicants' second head of claim asking the General Court to direct the Commission to examine the merits of the requests for internal review referred to, the General Court dismissed the Commission's objection of inadmissibility in relation to the applicants' submissions supplementing the application initiating proceedings.

15 Moreover, the General Court rejected as unfounded the applicants' first plea at first instance, alleging that the Commission erred in law in categorising Regulation No 149/2008 as an act of general scope that could not be regarded as an administrative act for the purposes of Article 2(1)(g) of Regulation No 1367/2006 and, accordingly, could not form the subject of a request for internal review under Article 10(1) of that regulation. However, the General Court upheld the second plea, put forward in the alternative, alleging the illegality of Article 10(1) by reason of its incompatibility with Article 9(3) of the Aarhus Convention.

16 After recalling, in paragraphs 51 and 52 of the judgment under appeal, that, like every other international agreement to which the European Union is a party, the Aarhus Convention prevails over acts of secondary EU legislation, the General Court stated, in paragraph 53 of the judgment, that the Courts of the European Union may examine the validity of a provision of a regulation in the light of an international treaty only where the nature and the broad logic of the latter do not preclude this and where, in addition, the provisions of the treaty appear, as regards their content, to be unconditional and sufficiently precise.

17 However, it recalled, in paragraph 54 of the judgment under appeal, that the Court of Justice has held that it had to exercise its review of the legality of the EU act in question in the light of rules laid down in an international agreement that are not capable of conferring on the individuals concerned the right to invoke it before the courts in a situation where the European Union has sought to implement a particular obligation entered into within the framework of that agreement or where the secondary legislative act makes an explicit reference to particular provisions of that agreement (judgments in *Fediol* v *Commission*, 70/87, EU:C:1989:254, paragraphs 19 to 22, and *Nakajima* v *Council*, C-69/89, EU:C:1991:186, paragraph 31). The General Court concluded, in the same paragraph 54, that the Courts of the European Union must be able to review the legality of that regulation in the light of the international agreement where that regulation is intended to implement an obligation imposed on the EU institutions under that agreement.

18 In paragraphs 57 and 58 of the judgment under appeal, the General Court considered those conditions to have been met in the case at issue since, on the one hand, the applicants, which were not relying on the direct effect of the provisions of the agreement, were indirectly questioning, in accordance with Article 241 EC, the validity of a provision of Regulation No 1367/2006 in the light of the Aarhus Convention and that, on the other hand, that regulation had been adopted to meet the European Union's international obligations under Article 9(3) of that convention, as is apparent both from Article 1(1) of Regulation No 1367/2006 and recital 18 thereof.

19 The General Court rejected the Commission's argument that the Aarhus Convention was not applicable as the Commission, in adopting Regulation No 149/2008, had been acting in its 'legislative capacity' within the meaning of the second subparagraph of Article 2(2) of that convention. Indeed, in paragraph 65 of the judgment under appeal, the General Court found that the

Commission had acted in the exercise of its implementing powers.

20 The General Court held, in paragraph 83 of the judgment under appeal, that Article 10(1) of Regulation No 1367/2006, in so far as it provides for an internal review procedure only in respect of an 'administrative act', which is defined in Article 2(1)(g) of that regulation as 'any measure of individual scope', is not compatible with Article 9(3) of the Aarhus Convention.

21 The General Court therefore annulled the decisions at issue.

Forms of order sought by the parties and proceedings before the Court

22 By their appeals, the Council and the Commission request the Court to set aside the judgment under appeal, to dismiss the action of the applicants at first instance in its entirety and to order those applicants to pay, jointly and severally, the costs.

23 By order of the President of the Court of 21 November 2012, Cases C -404/12 P and C -405/12 P were joined for the purposes of the written and oral procedure and of the judgment.

24 On 28 February 2013, the applicants at first instance lodged a response to the appeal in which they request the Court to dismiss the appeal and to order the Commission and the Council to pay the costs they incurred both at first instance and in the appeal.

25 The applicants at first instance also brought a cross-appeal by which they request the Court to set aside the judgment under appeal and to annul the decisions at issue and to order the Council and the Commission to pay the costs they incurred both at first instance and in the appeal.

26 The Council and the Commission lodged a response to the cross-appeal on 29 and 17 May 2013, respectively.

The appeals

The cross-appeal

Arguments of the parties

27 Stichting Natuur en Milieu and Pesticide Action Network Europe argue that the General Court vitiated the judgment under appeal by error of law in refusing to recognise the direct effect of Article 9(3) of the Aarhus Convention, at least in so far as it provides that 'acts' which infringe national environmental law must be subject to a right of appeal and, consequently, in refusing to assess the legality of Article 10(1) of Regulation No 1367/2006 in the light of Article 9(3) of the Convention.

28 The Council and the Commission maintain that the cross-appeal must be dismissed as inadmissible owing to its 'conditionality'. Moreover, it does not meet the requirements set out in Article 178 of the Rules of Procedure of the Court.

29 In the alternative, the Council and the Commission submit that the cross-appeal is, in any event, unfounded.

Findings of the Court

30 In accordance with Articles 169(1) and 178(1) of the Rules of Procedure of the Court, any appeal,

whether it be a main appeal or a cross-appeal, must seek to have set aside, in whole or in part, the decision of the General Court.

31 In the present case, Stichting Natuur en Milieu and Pesticide Action Network Europe obtained, before the General Court, the annulment of the decisions at issue in accordance with the forms of order sought in their action. Their cross-appeal, which in fact merely seeks to substitute the grounds relating to the analysis of whether Article 9(3) of the Aarhus Convention may be relied on, cannot, therefore, be upheld (see, by analogy, in relation to a main appeal, judgment in *Al-Aqsa* v *Council* and *Netherlands* v *Al-Aqsa*, C-539/10 P and C-550/10 P, EU:C:2012:711, paragraphs 43 to 45).

32 It follows from the above considerations that the cross-appeal must be dismissed as inadmissible.

The main appeals

33 The Council and the Commission put forward a first ground of appeal, alleging that the General Court erred in law in holding that Article 9(3) of the Aarhus Convention may be relied on in order to assess the compliance of Article 10(1) of Regulation No 1367/2006 with that provision.

34 The Council puts forward a second ground of appeal, alleging that, in any event, the General Court erred in interpreting Article 9(3) of the Aarhus Convention in finding Regulation No 1367/2006 not to be compatible with it.

35 The Commission also puts forward a second ground of appeal, alleging that the General Court erred in law in holding that the adoption of Regulation No 149/2008 does not involve the exercise of legislative powers within the meaning of the second subparagraph of Article 2(2) of the Aarhus Convention.

The first plea in the main appeals

Arguments of the parties

36 The Council maintains that the two situations in which the Court has accepted that an individual may rely on the provisions of an international agreement that does not meet the requirements of unconditionality and precision necessary for them to be able to relied on for the purposes of assessing the validity of the provisions of an EU act are exceptional and, in any event, do not correspond to the situations in the present case.

37 In particular, first, the solution adopted in the judgment in *Fediol* v *Commission* (EU:C:1989:254) is justified by the specific circumstances of that case that led to that judgment, in which the regulation at issue entitled the economic agents concerned to rely on rules of the General Agreement on Tariffs and Trade (‘GATT’). Moreover, that solution is not to be applied outside of the specific scope of the GATT.

38 Secondly, with regard to the judgment in *Nakajima* v *Council* (EU:C:1991:186), the Council submits that it concerns only the situation where the European Union has sought to implement a particular obligation assumed under the GATT, which is not the situation in the present case either.

39 The Commission relies essentially on similar arguments.

40 With regard to the judgment in *Fediol* v *Commission* (EU:C:1989:254), it adds that that judgment applies only to the situation where an EU act has made an explicit reference to particular provisions of the GATT.

41 As regards the judgment in *Nakajima* v *Council* (EU:C:1991:186), it submits that that judgment

cannot be interpreted as permitting the review of any act of EU law in the light of an international agreement which that act may implement. For such a review to be carried out, the EU legislative act should constitute a direct and comprehensive implementation of the international agreement and relate to a sufficiently clear and precise obligation under that agreement, which is not the situation in the present case.

42 Stichting Natuur en Milieu and Pesticide Action Network Europe argue that the judgment in *Lesoochranárske zoskupenie* (C-240/09, EU:C:2011:125) does not provide any indication as to the direct effect of Article 9(3) of the Aarhus Convention as regards challengeable acts and that it is necessary to have regard to the fact that that convention intends to confer rights on individuals.

43 They submit that the nature and purpose of the Aarhus Convention do not preclude the review of validity requested by the environmental associations and that the conditions set out in the judgment in *Fediol* v *Commission* (EU:C:1989:254) are fulfilled in the present case given that Regulation No 1367/2006 contains a number of references to the Convention and, in particular, to Article 9(3) thereof. They submit that the Court did not limit the scope of that judgment to the GATT.

Findings of the Court

44 Pursuant to Article 300(7) EC (now Article 216(2) TFEU), international agreements concluded by the European Union bind its institutions and consequently prevail over the acts laid down by those institutions (see, to that effect, judgment in *Intertanko and Others* , EU:C:2008:312, paragraph 42 and the case-law cited).

45 However, the effects, within the EU legal order, of provisions of an agreement concluded by the European Union with non-member States may not be determined without taking account of the international origin of those provisions. In conformity with the principles of international law, EU institutions which have power to negotiate and conclude such an agreement are free to agree with the non-member States concerned what effects the provisions of the agreement are to have in the internal legal order of the contracting parties. If that question has not been expressly dealt with in the agreement, it is for the courts having jurisdiction in the matter and in particular the Court of Justice, within the framework of its jurisdiction under the FEU Treaty, to decide it, in the same manner as any other question of interpretation relating to the application of the agreement in question in the European Union on the basis in particular of the agreement's spirit, general scheme or terms (see judgment in *FIAMM and Others* v *Council and Commission* , C-120/06 P and C-121/06 P, EU:C:2008:476, paragraph 108 and the case-law cited).

46 The Court has consistently held that the provisions of an international agreement to which the European Union is a party can be relied on in support of an action for annulment of an act of secondary EU legislation or an exception based on the illegality of such an act only where, first, the nature and the broad logic of that agreement do not preclude it and, secondly, those provisions appear, as regards their content, to be unconditional and sufficiently precise (see judgments in *Intertanko and Others* , EU:C:2008:312, paragraph 45; *FIAMM and Others* v *Council and Commission*, EU:C:2008:476, paragraphs 110 and 120; and *Air Transport Association of America and Others*, C-366/10, EU:C:2011:864, paragraph 54).

47 With regard to Article 9(3) of the Aarhus Convention, that article does not contain any unconditional and sufficiently precise obligation capable of directly regulating the legal position of individuals and therefore does not meet those conditions. Since only members of the public who 'meet the criteria, if any, laid down in … national law' are entitled to exercise the rights provided for in Article 9(3), that provision is subject, in its implementation or effects, to the adoption of a subsequent measure (see judgment in *Lesoochranárske zoskupenie*, EU:C:2011:125, paragraph 45).

48 It is true that the Court has also held that, where the European Union intends to implement a particular obligation assumed in the context of the agreements concluded in the context of the World Trade Organization ('the WTO agreements') or where the EU act at issue refers explicitly to specific provisions of those agreements, the Court should review the legality of the act at issue and the acts adopted for its implementation in the light of the rules of those agreements (see judgments in *Fediol* v *Commission*, EU:C:1989:254, paragraphs 19 to 23; *Nakajima* v *Council*, EU:C:1991:186, paragraphs 29 to 32; *Germany* v *Council*, C -280/93, EU:C:1994:367, paragraph 111, and *Italy* v *Council*, C-352/96, EU:C:1998:531, paragraph 19)

49 However, those two exceptions were justified solely by the particularities of the agreements that led to their application.

50 With regard, in the first place, to the judgment in *Fediol* v *Commission* (EU:C:1989:254), it should be recalled that Article 2(1) of Council Regulation (EEC) No 2641/84 of 17 September 1984 on the strengthening of the common commercial policy with regard in particular to protection against illicit commercial practices (OJ 1984 L 252, p. 1), at issue in the case that led to that judgment, referred explicitly to rules of international law based, essentially, on the GATT, and conferred on interested parties the right to invoke provisions of the GATT in the context of a complaint lodged under that regulation (judgment in *Fediol* v *Commission*, EU:C:1989:254, paragraph 19), whereas, in the present case, Article 10(1) of Regulation No 1367/2006 neither makes direct reference to specific provisions of the Aarhus Convention nor confers a right on individuals. Consequently, in the absence of such an explicit reference to provisions of an international agreement, the judgment referred to cannot be deemed relevant in the present case.

51 As regards, in the second place, the judgment in *Nakajima* v *Council* (EU:C:1991:186), the acts of EU law at issue in that case were linked to the antidumping system, which is extremely dense in its design and application, in the sense that it provides for measures in respect of undertakings accused of dumping practices. More specifically, the basic regulation at issue in that case had been adopted in accordance with the existing international obligations of the Community, in particular those arising out of the Agreement on Implementation of Article VI of the General Agreement on Tariffs and Trade, approved, on behalf of the Community, by Council Decision 80/271/EEC of 10 December 1979 concerning the conclusion of the Multilateral Agreements resulting from the 1973 to 1979 trade negotiations (OJ 1980 L 71, p. 1) (see judgment in *Nakajima* v *Council*, EU:C:1991:186, paragraph 30). However, in the present case, there is no question of implementation, by Article 10(1) of Regulation No 1367/2006, of specific obligations within the meaning of that judgment, in so far as, as is apparent from Article 9(3) of the Aarhus Convention, the Contracting Parties thereto have a broad margin of discretion when defining the rules for the implementation of the 'administrative or judicial procedures'.

52 In that regard, it cannot be considered that, by adopting Regulation No 1367/2006, which concerns only EU institutions and moreover concerns only one of the remedies available to individuals for ensuring compliance with EU environmental law, the European Union was intended to implement the obligations, within the meaning of the case-law cited in paragraph 48 of this judgment, which derive from Article 9(3) of the Aarhus Convention with respect to national administrative or judicial procedures, which, as EU law now stands, fall primarily within the scope of Member State law (see, to that effect, judgment in *Lesoochranárske zoskupenie*, EU:C:2011:125, paragraphs 41 and 47).

53 It follows from all the foregoing that, in holding that Article 9(3) of the Aarhus Convention could be relied on in order to assess the legality of Article 10(1) of Regulation No 1367/2006, the General Court vitiated its judgment by an error of law.

54 Accordingly, the judgment under appeal must be set aside, and there is no need to examine the

other grounds put forward by the Council and the Commission in support of their appeals.

The action before the General Court

55 Pursuant to Article 61 of the Statute of the Court of Justice of the European Union, if the appeal is well founded, the Court of Justice is to quash the decision of the General Court and may itself give final judgment in the matter, where the state of the proceedings so permits, or refer the case back to the General Court for judgment.

56 The Court considers that the state of the proceedings permits final judgment and that it is appropriate to rule on the substance of the application for annulment of the decisions at issue.

57 By the first plea of their action before the General Court, Stichting Natuur en Milieu and Pesticide Action Network Europe submitted that the Commission had been wrong to consider their requests for internal review of Regulation No 146/2008 inadmissible on the ground that it was an act of general scope.

58 That plea, on the same grounds as those adopted by the General Court, must be rejected as unfounded.

59 Stichting Natuur en Milieu and Pesticide Action Network Europe also argued, by the second plea of their action, that Article 10(1) of Regulation No 1367/2006 is invalid, in that it confines the concept of 'acts' within the meaning of Article 9(3) of the Aarhus Convention to individual administrative acts.

60 It follows from paragraph 47 of this judgment that Article 9(3) of the Aarhus Convention lacks the clarity and precision required for that provision to be properly relied on before the EU judicature for the purposes of assessing the legality of Article 10(1) of Regulation No 1367/2006.

61 The second plea of the action must therefore also be rejected as unfounded.

62 Since neither of the pleas of the action lodged by Stichting Natuur en Milieu and Pesticide Action Network Europe before the General Court is well founded, their action must be dismissed.

Costs

63 Under Article 138(1) and (2) of the Rules of Procedure of the Court, applicable to appeal proceedings by virtue of Article 184(1) thereof, the unsuccessful party is to be ordered to pay the costs if they have been applied for in the successful party's pleadings. Where there are several unsuccessful parties, the Court is to decide how the costs are to be shared.

64 Since Stichting Natuur en Milieu and Pesticide Action Network Europe have been unsuccessful and the Council and the Commission have applied for costs to be awarded against them, they must be ordered to pay jointly and severally the costs incurred both at first instance and in the present appeals by the Council and the Commission.

65 Under Article 140(1) of the Rules of Procedure, applicable to appeal proceedings by virtue of Article 184(1) thereof, the Member States which intervened in the proceedings are to bear their own costs. Consequently, it is appropriate to order the Czech Republic to bear its own costs.

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

1. **Dismisses the cross-appeal;**

2. **Sets aside the judgment of the General Court of the European Union in *Stichting Natuur en Milieu and Pesticide Action Network Europe* v *Commission* (T-338/08, EU:T:2012:300);**

3. **Dismisses the application for annulment lodged by Stichting Natuur en Milieu and Pesticide Action Network Europe before the General Court of the European Union;**

4. **Orders Stichting Natuur en Milieu and Pesticide Action Network Europe to pay jointly and severally the costs incurred at first instance and in the appeals by the Council of the European Union and the European Commission;**

5. **Orders the Czech Republic to bear its own costs.**

[Signatures]

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* Language of the case: Dutch.