



Press and Information

Court of Justice of the European Union

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Judgment in Case C-733/19
Netherlands v Council and Parliament

The Court of Justice dismisses the action brought by the Netherlands against the ban on fishing by vessels using electric pulse trawls

The EU legislature has a wide discretion in this field and is not obliged to base its legislative choice on scientific and technical opinions only

In 2019, the European Parliament and the Council of the European Union adopted new rules on the conservation of fisheries resources and the protection of marine ecosystems.¹ Accordingly, certain destructive fishing gear or methods which use explosives, poison, stupefying substances, electric current, pneumatic hammers or other percussive instruments, towed devices and grabs for harvesting red coral or other types of coral and certain spear-guns are prohibited. However, the use of electric pulse trawl remains possible during a transitional period (until 30 June 2021) and under certain strict conditions.

On 4 October 2019, the Netherlands brought an action before the Court of Justice for the annulment of the provisions of this regulation concerning electric pulse fishing vessels. The Netherlands argued inter alia that the EU legislature had not relied on the best scientific opinions available concerning the comparison of the environmental impacts of electric pulse trawling and traditional beam trawling in the exploitation of North Sea sole.

In its judgment delivered today, the Court recalls, first of all, that the EU legislature is not obliged to base its legislative choice as to technical measures on the available scientific and technical opinions only. In the field of fisheries, moreover, the EU legislature has a wide discretion. Consequently, the review by the EU judicature must be limited to ascertaining whether the measure in question is vitiated by manifest error or misuse of powers or whether the legislature has manifestly exceeded the limits of its discretion. However, according to the Court, **none of the arguments put forward by the Netherlands demonstrates the manifestly inappropriate nature of the technical measures in question.**

While scientific opinions have identified some advantages with electric pulse trawling as opposed to beam trawling, these opinions also noted that a number of residual risks relating to the former had not yet been fully assessed.

Moreover, the EU legislature has sufficiently explained the reasons why it departed from scientific opinions when adopting the provisions in question.

Furthermore, although the scientific and technical studies available contain, at times, divergent assessments of the extent of the negative impacts of electric pulse fishing, none of them states, contrary to what the Netherlands maintain, that this method has no negative impacts on the environment.

¹ Regulation (EU) 2019/1241 of the European Parliament and of the Council of 20 June 2019 on the conservation of fisheries resources and the protection of marine ecosystems through technical measures, amending Council Regulations (EC) No 1967/2006, (EC) No 1224/2009 and Regulations (EU) No 1380/2013, (EU) 2016/1139, (EU) 2018/973, (EU) 2019/472 and (EU) 2019/1022 of the European Parliament and of the Council, and repealing Council Regulations (EC) No 894/97, (EC) No 850/98, (EC) No 2549/2000, (EC) No 254/2002, (EC) No 812/2004 and (EC) No 2187/2005 (OJ 2019 L 198, p. 105).

With regard to the argument put forward by the Netherlands based on the innovative nature of electric pulse trawling, the Court points out that the objective of the European Union to promote scientific and technical progress does not mean that the legislature is obliged to transpose every new technique into a legislative act solely on the ground that it is innovative.

Consequently, the Court dismisses the action brought by the Netherlands in its entirety.

NOTE: An action for annulment seeks the annulment of acts of the institutions of the European Union that are contrary to European Union law. The Member States, the European institutions and individuals may, under certain conditions, bring an action for annulment before the Court of Justice or the General Court. If the action is well founded, the act is annulled. The institution concerned must fill any legal vacuum created by the annulment of the act.

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The [full text](#) of the judgment is published on the CURIA website on the day of delivery.

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