



PRESS RELEASE No 105/23

Luxembourg, 21 June 2023

Order of the General Court in Case T-628/22 | Repasi v Commission

Taxonomy: the General Court dismisses as inadmissible the action of a Member of the European Parliament challenging the Commission's regulation on the sustainability of certain economic activities relating to fossil gas and nuclear energy

Unlike the European Parliament, its individual members may not challenge such an act

On 18 June 2020, the European Parliament and the Council adopted Regulation 2020/852 on the establishment of a framework to facilitate sustainable investment.¹ That regulation establishes the criteria for determining whether an economic activity qualifies as environmentally sustainable, in the light of various environmental objectives defined therein. Climate change mitigation is one of those objectives.² Under that regulation, transitional activities, that is to say, those for which there are no technologically and economically feasible low-carbon alternatives, contribute substantially to climate change mitigation when they have a path towards climate-neutrality, subject to compliance with certain criteria.

In that context, the European Commission adopted Delegated Regulation 2022/1214³ establishing the technical screening criteria for determining on which conditions certain economic activities relating to fossil gas and nuclear energy constitute transitional activities that have a potential to contribute inter alia to the climate change mitigation objective.

Taking the view that the Commission exceeded the powers to adopt delegated acts conferred on it, Mr René Repasi, Member of the European Parliament, brought an action for annulment of that regulation before the General Court, claiming that that regulation infringed the Parliament's legislative competence and, therefore, the applicant's rights as a Member of the Parliament.

In its Order, **the Court rules for the first time on the legal standing of a Member of the European Parliament to challenge a delegated regulation of the Commission before going on to dismiss the action as inadmissible.**

Findings of the Court

As a preliminary point, the Court observes that, under the fourth paragraph of Article 263 TFEU, any natural or legal

¹ Regulation (EU) 2020/852 of the European Parliament and of the Council of 18 June 2020 on the establishment of a framework to facilitate sustainable investment, and amending Regulation (EU) 2019/2088 (OJ 2020 L 198, p. 13).

² Articles 3 and 9 of Regulation 2020/852.

³ Commission Delegated Regulation (EU) 2022/1214 of 9 March 2022 amending Delegated Regulation (EU) 2021/2139 as regards economic activities in certain energy sectors and Delegated Regulation (EU) 2021/2178 as regards specific public disclosures for those economic activities (OJ 2022, L 188, p. 1).

person may bring an action against an act which is not addressed to them when the act in question is of direct and individual concern to them or when it is a regulatory act not entailing implementing measures if that act is of direct concern to them. In order for the act in question to be of direct concern to an individual, two cumulative criteria must be met. First, the contested measure must directly affect the legal situation of the individual and, second, it must leave no discretion to its addressees who are responsible for its implementation.

As regards the applicant's standing to contest Delegated Regulation 2022/1214, it is apparent from the case-law that an act of Parliament which affects the conditions under which its Members perform their parliamentary duties is an act which directly affects their legal position. However, the Court points out that that case-law concerns measures of internal organisation of the Parliament which directly affect its Members and cannot be transposed to the present case in which the rights its members could be affected only indirectly by the alleged infringement of the Parliament's legislative competence. **All of the applicant's rights connected with the exercise of the Parliament's legislative competence**, such as the right to take part in a regular legislative procedure, to comply with the provisions on competence and procedure, to defend the democratic powers of Parliament and the rights to vote, to take initiative and to participate in order to exert political influence, **are intended to be exercised only in the context of the Parliament's internal procedures and cannot therefore be regarded as directly affected by the adoption of Delegated Regulation 2022/1214.**

The Court adds in that regard that **the principles of representative democracy and the rule of law**, relied on by the applicant in support of his claim to have standing, **as well as the protection of the institutional balance or the right to legal protection of the minority, are not such as to call that finding into question, since the Parliament has a right of action against acts of EU law, so that observance of those principles is ensured**. The same holds true for the applicant's arguments to the effect that the Members of Parliament should qualify as directly concerned by acts affecting rules of competence, fundamental provisions of the legislative procedure or acts constituting a misuse of powers.

In the light of those considerations, the Court concludes that the applicant does not have standing on the ground that Delegated Regulation 2022/1214 is not of direct concern to him.

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.

NOTE: An appeal, on a point or points of law only, may be brought before the Court of Justice against a judgment or order of the General Court. In principle, the appeal does not have suspensive effect. If the appeal is admissible and well founded, the Court annuls the General Court's decision. If the state of the proceedings so permit, the Court of Justice may itself rule definitively on the case. If not, the case is referred back to the General Court, which is bound by the decision delivered by the Court of Justice on appeal.

Unofficial document for media use, not binding on the General Court.

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

Press contact: Jacques René Zammit ☎(+352) 4303 3355

Stay Connected!

