**Action brought on 10 June 2019 –Polisario Front v Council**

**(Case T-344/19)**

*Language of the case: French*

**Parties**

*Applicant:* Popular Front for the Liberation of Saguia el-Hamra and Rio de Oro (Polisario Front) (represented by: G. Devers, lawyer)

*Defendant:* Council of the European Union

**Form of order sought**

The applicant claims that the Court should:

declare its action for annulment admissible;

annul the contested decision;

order the Council to pay the costs.

**Pleas in law and main arguments**

In support of the action brought against Council Decision (EU) 2019/441 of 4 March 2019 on the conclusion of the Sustainable Fisheries Partnership Agreement between the European Union and the Kingdom of Morocco, the Implementation Protocol thereto and the Exchange of Letters accompanying the Agreement (OJ 2019 L 77, p. 4), the applicant relies on eleven pleas in law.

First plea in law, alleging the Council’s lack of competence to adopt the contested decision, in so far as the European Union and the Kingdom of Morocco do not have the competence to conclude an international agreement applicable to Western Sahara instead of the Sahrawi people, represented by the Polisario Front.

Second plea in law, alleging failure to comply with the obligation to examine the question of respect for fundamental rights and for international humanitarian law, in so far as the Council failed to examine that question before adopting the contested decision.

Third plea in law, alleging breach, on the part of the Council, of its obligation to execute the judgments of the Court, in so far as the contested decision disregards the grounds of the Court’s judgments of 27 February 2018, *Western Sahara Campaign UK* (C-266/16, EU:C:2018:118).

Fourth plea in law, alleging breach of the essential principles and values guiding the Union’s action on the international scene, since:

first, in breach of the right of peoples to respect for their national unity, the contested decision denies the existence of the Sahrawi people by using the expressions ‘the people of Western Sahara’ and ‘the people concerned’ instead;

secondly, in breach of the right of peoples to dispose freely of their natural resources, the contested decision concludes an international agreement that organises, without consent of the Sahrawi people, the exploitation of its fishery resources by Union vessels;

thirdly, the contested decision concludes an international agreement applicable to occupied Western Sahara, with the Kingdom of Morocco, in the context of its policy of annexation with regard to that territory and the systematic breaches of fundamental rights that maintaining such a policy entails.

Fifth plea in law, alleging breach of the principle of protection of legitimate expectations, in so far as the contested decision is contrary to the declarations of the European Union which has consistently reiterated the need to observe the principles of self-determination and of the relative effect of treaties.

Sixth plea in law, alleging misapplication of the principle of proportionality since, given the separate and distinct status of Western Sahara, the intangible character of the right to self-determination and the status of third party of the Sahrawi people, it was not for the Council to carry out a balancing exercise between the alleged ‘benefits’ from the Fisheries Agreement and its impact on Sahrawi natural resources.

Seventh plea in law, alleging conflict with the Common Fisheries Policy since, in accordance with the agreement concluded by the contested decision, Union vessels will have access to the fishery resources of the Sahrawi people, without its consent, in exchange for a financial contribution paid to the Moroccan authorities, although Western Sahara waters are not Moroccan ‘waters’ for the purposes of Articles 61 and 62 of the United Nations Convention on the Law of the Sea.

Eighth plea in law, alleging breach of the right to self-determination since:

first, by using the expressions ‘the people of Western Sahara’ and ‘the people concerned’ instead, the contested decision denies the national unity of the Sahrawi people as a subject of the right to self-determination;

secondly, in breach of the right of the Sahrawi people to dispose freely of its natural resources, the contested decision organises, without its consent, the exploitation of its fishery resources by Union vessels;

thirdly, in breach of the right of the Sahrawi people to respect for the territorial integrity of its national territory, the contested decision denies the separate and distinctive status of Western Sahara and endorses the illegal division thereof by the Moroccan ‘Berm’.

Ninth plea in law, alleging infringement of the principle of the relative effect of treaties since the contested decision denies the Sahrawi people’s status of third party to EU-Morocco relations and imposes international obligations on the Sahrawi people concerning its national territory and its natural resources, without its consent.

Tenth plea in law, alleging violations of international humanitarian law and international criminal law since:

first, the contested decision concludes an international agreement applicable to Western Sahara although the Moroccan occupying forces do not have *jus tractatus* with regard to that territory and are prohibited from exploiting its natural resources;

secondly, pursuant to the agreement concluded by the contested decision, the European Union will subsidise Moroccan infrastructure in occupied Sahrawi territory, so that the Kingdom of Morocco may durably establish its own civilian population and its own armed forces there;

thirdly, by using the expressions ‘the people of Western Sahara’ and ‘the people concerned’, the contested decision is endorsing the illegal transfer of Moroccan settlers to occupied Sahrawi territory.

Eleventh plea in law, alleging breach, on the part of the Union, of its obligations under the law of international responsibility since, by concluding an international agreement with the Kingdom of Morocco that is applicable to Western Sahara, the contested decision is endorsing serious violations of international law committed by the Moroccan occupying forces against the Sahrawi people and supporting the situation arising from those violations.