**Action brought on 27 April 2019 – Front Polisario v Council**

**(Case T-279/19)**

*Language of the case: French*

**Parties**

*Applicant:* Front populaire pour la libération de la Saguia el-Hamra et du Rio de Oro (Front Polisario) (represented by: G. Devers, lawyer)

*Defendant:* Council of the European Union

**Form of order sought**

The applicant claims that the General Court should

Declare its action admissible;

Annul the contested decision;

Order the Council to pay the costs.

**Pleas in law and main arguments**

In support of the action against Council Decision (EU) 2019/217 of 28 January 2019 on the conclusion of the agreement in the form of an Exchange of Letters between the European Union and the Kingdom of Morocco on the amendment of Protocols 1 and 4 to the Euro-Mediterranean Agreement establishing an association between the European Communities and their Member States, of the one part, and the Kingdom of Morocco, of the other part (OJ 2019 L 34, p. 1), the applicant relies on ten pleas in law.

First plea in law, alleging that the Council does not have the power to adopt the contested decision, in that the European Union and the Kingdom of Morocco lack competence to enter into an international agreement that applies to Western Sahara, instead and in the place of the people of Western Sahara, represented by the Front Polisario.

Second plea in law, alleging failure to comply with the duty to examine the question of respect for fundamental rights and international humanitarian law, in that the Council failed to consider that question prior to 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 judgment of 21 December 2016, *Council* v *Front Polisario* (C-104/16 P, EU:C:2016:973).

Fourth plea in law, alleging breach of the essential principles and values guiding the Union’s action on the international stage, in that (i) the contested decision denies the existence of the people of Western Sahara as a legal subject in substituting the words ‘populations concerned’ therefor; (ii) in breach of the right of peoples freely to dispose of their natural resources, the contested decision concludes an international agreement which organises, without the consent of the people of Western Sahara, the export of its natural resources to the European Union, defining those resources as being of Moroccan origin; and (iii) the contested decision concludes an international agreement, applicable to occupied Western Sahara, with the Kingdom of Morocco, in the context of the latter’s annexationist policy with regard to Western Sahara 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 that the contested decision runs counter to the declarations made by the European Union, which has repeatedly affirmed the need to comply with the principles of self-determination and the relative effect of treaties.

Sixth plea in law, alleging misapplication of the principle of proportionality, in that, in the light of the separate and distinct status of Western Sahara, the intangible nature of the right to self-determination and the standing of the people of Western Sahara as third parties, it was not for the Council find that the alleged ‘advantages for the economy of Western Sahara’ were proportional to the repercussions for natural resources in Western Sahara.

Seventh plea in law, alleging infringement of the right to self-determination, in that (i) the contested decision denies the national unity of the people of Western Sahara, which has the right to self-determination, by substituting the words ‘populations concerned’ for that people; (ii) in breach of the right of the people of Western Sahara freely to dispose of its natural resources, the contested decision concludes an international agreement which organises, without the consent of the people of Western Sahara, the export of its natural resources to the European Union, which resources are to be defined as being of Moroccan origin; and (iii) in breach of the separate and distinct status of the territory of Western Sahara, the contested decision concludes an international agreement, applicable to occupied Western Sahara, and conceals the genuine country of origin of the goods from that territory, by defining them as being of Moroccan origin.

Eighth plea in law, alleging infringement of the principle of the relative effect of treaties, in that the contested decision denies the people of Western Sahara standing as a third party in EU-Morocco relations and imposes international obligations on it, relating to its national territory and natural resources, without its consent.

Ninth plea in law, alleging infringement of international humanitarian law and international criminal law, in that (i) the contested decision concludes an international agreement applicable to Western Sahara when the Moroccan occupying forces do not have *jus tractatus* with regard to that territory and are prohibited from exploiting the natural resources thereof; and (ii) by using the words ‘populations concerned’, that decision endorses the illegal transfer of Moroccan colonists to the occupied territory of Western Sahara.

Tenth plea in law, alleging breach of the obligation to ensure compliance with international human rights law and international humanitarian law, in that, by concluding an international agreement with the Kingdom of Morocco which is applicable to Western Sahara, the contested decision ratifies the serious breaches of international law committed by the Moroccan occupying forces against the people of Western Sahara and renders aid and assistance in maintaining the situation arising from those breaches.