

**Action brought on 21 December 2011 - European Parliament v Council of the European Union**

**(Case C-658/11)**

*Language of the case: English*

**Parties**

*Applicant:* European Parliament (represented by: R. Passos, A. Caiola and M. Allik, Agent )

*Defendant:* Council of the European Union

**The applicant claims that the Court should:**

annul Council Decision 2011/640/CFSP of 12 July 2011 on the signing and conclusion of the Agreement between the European Union and the Republic of Mauritius on the conditions of transfer of suspected pirates and associated seized property from the European Union-led naval force to the Republic of Mauritius and on the conditions of suspected pirates after transfer;[1]

order that the effects of Council Decision 2011/640/CFSP of 12 July 2011 be maintained until it is replaced;

order the Council of the European Union to pay the costs.

**Pleas in law and main arguments**

The European Parliament considers that Council Decision 2011/640/CFSP of 12 July 2011 on the signing and conclusion of the Agreement between the European Union and the Republic of Mauritius on the conditions of transfer of suspected pirates and associated seized property from the European Union-led naval force to the Republic of Mauritius and on the conditions of suspected pirates after transfer is invalid because it does not relate exclusively to the common foreign and security policy, as expressly provided for in Article 218(6), second paragraph, TFEU.

The European Parliament considers that the Agreement between the European Union and the Republic of Mauritius also relates to judicial cooperation in criminal matters, police cooperation, and development cooperation, covering fields to which the ordinary legislative procedure applies.

Therefore, this Agreement should have been concluded after obtaining the consent of the European Parliament in accordance with Article 218(6)(a)(v) TFEU.

For this reason the Council has violated the Treaties by failing to choose the appropriate legal basis for the conclusion of the Agreement.

Furthermore, the European Parliament considers that the Council has violated Article 218(10) TFEU, because it did not inform Parliament fully and immediately at the stages of negotiation and conclusion of the Agreement.

Should the Court of Justice annul the contested Decision, the European Parliament nonetheless proposes that the Court exercise its discretion to maintain the effects of the contested Decision, in accordance with Article 264, second paragraph, TFEU, until such time as it is replaced.