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INFORMATION NOTE

From: General Secretariat of the Council
To: Permanent Representatives Committee/Council
Subject: Case before the Court of Justice
Case C-647/15 (Hungary v Council of the European Union)

1. By application lodged with the Court on 3 December 2015 and notified to the Council on 8 December 2015, Hungary brought before the Court of Justice of the European Union an action for annulment of Council Decision (EU) 2015/1601 of 22 September 2015 establishing provisional measures in the area of international protection for the benefit of Italy and Greece¹.
2. In its action against the Council, Hungary puts forward ten pleas alleging that:
 - (i) Article 78(3) TFEU does not constitute an appropriate legal basis for the adoption of the contested decision;
 - (ii) a multi-annual "provisional" measure is not compatible with Article 78(3) TFEU;
 - (iii) there was an infringement of Article 293(1) TFEU;

¹ OJ L 248, 24.9.2015, p. 80.

- (iv) the contested decision failed to comply with the right of national parliaments to issue an opinion on legislative acts during its adoption;
 - (v) the consultation of the European Parliament during the adoption of the contested decision was not consistent with the provisions of the Treaty;
 - (vi) when the text was adopted by the Council, the draft decision was not available in all official EU languages;
 - (vii) the contested decision constitutes an infringement of Article 68 TFEU and of the European Council conclusions of 25 and 26 June 2015;
 - (viii) the contested decision contravenes the principles of legal certainty and clarity and the Geneva Convention of 28 July 1951 relating to the Status of Refugees;
 - (ix) the contested decision infringes the principles of necessity and proportionality;
 - (x) the contested decision infringes Article 78(3) TFEU and the principle of proportionality as regards Hungary (in the alternative).
3. Within two months of notification of the application, the Council has the right to submit a statement of defence to the Court.
4. The Director-General of the Legal Service has appointed Mr Matthieu Chavrier, Mr Krzysztof Pleśniak, Ms Zuzana Kupčova and Ms Nora Pethö, members of the Legal Service, as the Council's agents in this case.
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