



**Brussels, 12 May 2017
(OR. en)**

9148/17

LIMITE

**JUR 238
JAI 424
ASILE 32
MIGR 73
POLGEN 65**

INFORMATION NOTE

From:	Legal Service
To:	Permanent Representatives Committee (Part 2)
Subject:	Cases C-208/17 P, C-209/17 P and C-210/17 P before the Court of Justice

1. On 25 April 2017, the European Council was notified of the appeals brought against the Orders of 28 February 2017 rendered by the General Court in Cases T-192/16 (NF v European Council), T-193/16 (NG v European Council) and T-257/16 (NM v European Council), relating to the EU-Turkey Statement of 18 March 2016. In these Orders, the General Court dismissed the three actions as inadmissible on the grounds of lack of jurisdiction. In particular, the General Court held that the EU-Turkey Statement did not relate to an act of the European Council nor of any other body, office or agency of the Union and hence that the actions fell outside the Court's jurisdiction. ¹
2. In their appeals (Cases C- 208/17P, C-209/17P and C-210/17P), the appellants claim that the General Court made several errors of law and that it was wrong to decline jurisdiction. They request the Court of Justice to rule that their actions for annulment of the EU-Turkey Statement are within the Court's jurisdiction and to send the cases back to the General Court for a decision on the merits of their claims.

¹ See Information Note to Coreper of June 2016 (doc. 9897/16).

3. The Appellants invoke the following pleas in support of their appeals:
- (i) The General Court failed to give reasons for rejecting the Applicants' legal arguments.
 - (ii) The General Court failed to properly consider whether the EU-Turkey Statement (which the Appellants refer to as the 'challenged Agreement') was in reality a decision of the European Council.
 - (iii) The General Court ignored relevant factual issues, including the fact that the intended effect of EU-Turkey Statement is to deprive the Appellants of their fundamental rights.
 - (iv) The General Court unlawfully concentrated on the alleged procedural history of the EU-Turkey Statement and failed to consider evidence before it.
 - (v) The General Court unlawfully failed to investigate and assess material issues. The Appellants claim that there exists written legal advice within the EU institutions, and in particular of the Commission, on the legality of the EU-Turkey Statement and that the General Court should have requested this advice and considered this.
 - (vi) The General Court unlawfully failed to make further relevant enquiries. In particular, the Appellants claim that the Court should not have accepted the answers given by the Commission to some of the questions put to it.
 - (vii) The General Court came to its decision that the EU-Turkey Statement was not an act of the European Council based on an erroneous factual assessment.
 - (viii) The General Court unlawfully disregarded the principles established in Case 294/83 *Parti écologiste "Les Verts" v European Parliament* (Judgment of the Court of 23 April 1986, EU:C:1986:166).
4. According to Article 172 of the Rules of Procedure of the Court of Justice, the European Council may lodge a response to the appeal within two months after being notified of it. The Director-General of the Council Legal Service has appointed Ms Sonja Boelaert, Mr Matthieu Chavrier and Mr Jan-Peter Hix as the European Council's agents in this case.
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