



Plenary sitting

B8-0100/2019

6.2.2019

MOTION FOR A RESOLUTION

pursuant to Rule 108(6) of the Rules of Procedure

seeking an opinion from the Court of Justice on the compatibility with the Treaties of the proposed Sustainable Fisheries Partnership Agreement between the European Union and the Kingdom of Morocco, the Implementation Protocol thereto and an exchange of letters accompanying the said Agreement (2019/2565(RSP))

Linnéa Engström, Paloma López Bermejo, Marco Affronte, Yannick Jadot, Ian Hudghton, Ana Miranda, José Bové, Klaus Buchner, Maria Heubuch, Jakop Dalunde, Julia Reda, Ska Keller, Bodil Valero, Malin Björk, Soraya Post, Margrete Auken, Romeo Franz, Nils Torvalds, Renata Briano, Isabelle Thomas, Edouard Martin, Jean Lambert, Keith Taylor, Max Andersson, Reinhard Bütikofer, Izaskun Bilbao Barandica, Eva Joly, Jill Evans, Michèle Rivasi, Bas Eickhout, Miroslavs Mitrofanovs, Tilly Metz, Helga Trüpel, Florent Marcellesi, Barbara Lochbihler, Judith Sargentini, Bart Staes, Indrek Tarand, Ernest Urtasun, Bronis Ropé, Heidi Hautala, Philippe Lamberts, Karima Delli, Alyn Smith, Igor Šoltes, Josep-Maria Terricabras, Jordi Solé, Martin Häusling, Sven Giegold, Monika Vana, Terry Reintke, Michel Reimon, Ángela Vallina, Dennis de Jong, Anne-Marie Mineur, Matt Carthy, Liadh Ní Riada, Lynn Boylan, Martina Anderson, Miguel Urbán Crespo, Tania González Peñas, Estefanía Torres Martínez, Lola Sánchez Caldentey, Sofia Sakorafa, Sabine Lösing, Helmut Scholz, Xabier Benito Ziluaga, Martin Schirdewan, Patrick Le Hyaric, Marie-Christine Vergiat, Marina Albiol Guzmán, Barbara Spinelli, Dimitrios Papadimoulis, Stelios Kouloglou,

Marisa Matias, Martina Michels, Merja Kyllönen, Stefan Eck, Rina Ronja Kari, Neoklis Sylikiotis, Kostadinka Kuneva, Eleonora Forenza, Norbert Neuser, Tiemo Wölken, Birgit Sippel, Bernd Lange, Dietmar Köster, Babette Winter, Evelyne Gebhardt, Ulrike Rodust, Susanne Melior, Sylvia-Yvonne Kaufmann, Constanze Krehl, Jens Geier, Joachim Schuster, Jude Kirton-Darling, Marita Ulvskog, Sergio Gaetano Cofferati, Anna Hedh, Olle Ludvigsson, Aleksander Gabelic, Jytte Guteland, Guillaume Balas, Karoline Graswander-Hainz, Karin Kadenbach, Evelyn Regner, Josef Weidenholzer, Ana Gomes, Thomas Waitz, Michael Cramer

**European Parliament resolution seeking an opinion from the Court of Justice on the compatibility with the Treaties of the proposed Sustainable Fisheries Partnership Agreement between the European Union and the Kingdom of Morocco, the Implementation Protocol thereto and an exchange of letters accompanying the said Agreement
(2019/2565(RSP))**

The European Parliament,

- having regard to the proposed Sustainable Fisheries Partnership Agreement between the European Union and the Kingdom of Morocco, the Implementation Protocol thereto and an exchange of letters accompanying the said Agreement,
- having regard to the Council decision on the conclusion, on behalf of the Union, of the Sustainable Fisheries Partnership Agreement between the European Union and the Kingdom of Morocco, the Implementation Protocol thereto and an exchange of letters accompanying the said Agreement,
- having regard to Article 218(11) of the Treaty on the Functioning of the European Union,
- having regard to the Charter of the United Nations, in particular to Article 73 thereof in Chapter XI regarding non-self-governing territories,
- having regard to the Vienna Convention on the Law of Treaties between States and International Organisations or between International Organisations, in particular to Articles 34 and 35 thereof,
- having regard to Resolution 34/37 of the General Assembly of the United Nations,
- having regard to the judgment of the General Court of 10 December 2015 in case T-512/12¹,
- having regard to the judgment of the Court of Justice of the European Union (CJEU) of 21 December 2016 in case C-104/16 P²,
- having regard to the judgment of the CJEU of 27 February 2018 in case C-266/16³,

¹ Judgment of the General Court of 10 December 2015, *Front populaire pour la libération de la saquia-el-hamra et du rio de oro (Front Polisario) v Council of the European Union*, T-512/12, ECLI:EU:T:2015:953.

² Judgment of the Court of Justice of 21 December 2016, *Council v Front Polisario*, C-104/16 P, ECLI:EU:C:2016:973.

³ Judgment of the Court of Justice of 27 February 2018, *Western Sahara Campaign UK v Commissioners for Her Majesty's Revenue and Customs, Secretary of State for Environment, Food and Rural Affairs*, C-266/16, ECLI:EU:C:2018:118.

- having regard to the General Court order of 19 July 2018 in case T-180/14⁴,
 - having regard to the General Court order of 30 November 2018 in case T-275/18⁵,
 - having regard to Rule 108(6) of its Rules of Procedure,
- A. whereas under Article 21 of the Treaty on European Union, the EU and its Member States are under an obligation to respect the principles of the United Nations Charter and international law; whereas Article 1, paragraph 2, and Article 55 of the UN Charter include respect for the principle of self-determination of peoples;
 - B. whereas the CJEU, in its judgment of 21 December 2016, determined that the EU-Morocco Association and Liberalisation Agreements did not provide a legal basis for Western Sahara to be included, and therefore could not apply to this territory, since Western Sahara is not part of Morocco; whereas accordingly, the Court stated in paragraph 106 of that judgment that the people of Western Sahara ought to be viewed as a third party to the EU's relations with Morocco and that for any such bilateral arrangement to apply to Western Sahara, the consent of the people of that territory should be obtained; whereas the Commission considers that the Court did not define precisely how such consent should be expressed;
 - C. whereas the CJEU, in its judgment of 27 February 2018 in case C-266/16, held that the Fisheries Partnership Agreement between the European Community and the Kingdom of Morocco, which entered into force on 28 February 2007, is not legally applicable to the territory of Western Sahara and the waters adjacent to it;
 - D. whereas, in paragraph 64 of the judgment in case C-266/16, the CJEU held that the territory of Western Sahara is not covered by the concept of 'territory of Morocco' within the meaning of Article 11 of the Fisheries Partnership Agreement;
 - E. whereas, in paragraph 69 of the judgment in case C-266/16, the CJEU held that the waters adjacent to the territory of Western Sahara are not part of the waters falling 'within the sovereignty or jurisdiction' of Morocco referred to in Article 2(a) of the 2007 Partnership Agreement;
 - F. whereas the Commission and the European External Action Service conducted consultations in view of 'adequately involving' the people of Western Sahara, as required by the Council in the negotiating directives; whereas it cannot be established with certainty that the steps taken by the Commission meet the CJEU's requirement of consent by the people of Western Sahara;
1. Takes the view that there is legal uncertainty as to whether the proposed agreement is compatible with the Treaties and, in particular, with the CJEU's judgments of 21 December 2016 in case C-104/16 P, and of 27 February 2018 in case C-266/16;
 2. Decides to seek an opinion from the CJEU on the compatibility of the proposed Sustainable Fisheries Partnership Agreement between the European Union and the

⁴ Order of the General Court of 19 July 2018, *Front Polisario v Council*, T-180/14, ECLI:EU:T:2018:496.

⁵ Order of the General Court of 30 November 2018, *Front populaire pour la libération de la Saguia el-Hamra et du Rio de oro (Front Polisario) v Council of the European Union*, T-275/18, ECLI:EU:T:2018:869.

Kingdom of Morocco, the Implementation Protocol thereto and an exchange of letters accompanying the said Agreement with the Treaties and, in particular, with the CJEU judgments of 21 December 2016 in case C-104/16 P and of 27 February 2018 in case C-66/16;

3. Instructs its President to take the necessary measures to obtain such an opinion from the CJEU and to forward this resolution, for information, to the Council and the Commission.